

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

FEBRUARY 8, 2001

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, February 8, 2001 at 1:00 p.m. in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Jerry Michaelis, Chair; James Barfield; Frank Garofalo; Bud Hentzen; Bill Johnson; Richard Lopez; Ron Marnell; Susan Osborne-Howes (late arrival); George Platt; and Ray Warren. Chris Anderson, John W. McKay, Jr.; Chris Carraher; and Harold Warner were not present. Staff members present were Marvin Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner; and Karen Wolf, Recording Secretary.

Jerry Michaelis chaired the meeting in Chris Carraher's absence.

1. Approval of MAPC meeting minutes for December 7, 2000 and December 21, 2000.

MOTION: That the Metropolitan Area Planning Commission approve the minutes of December 7, 2000.

GAROFALO moved, **MARNELL** seconded the motion, and it carried unanimously (9-0).

WARREN "I have one little correction on Page 44 of the December 21 minutes, but I will give it to the secretary."

MICHAELIS "Okay."

MOTION: That the Metropolitan Area Planning Commission approve the minutes of December 21, 2000 as amended.

GAROFALO moved, **HENTZEN** seconded the motion, and it carried unanimously (9-0).

1. Consideration of Subdivision Committee recommendations

MICHAELIS "We need to pull Item No. 2/6 for discussion. Are there any other ones that anybody wants to pull?"

Subdivision Committee items 2/1, 2/2, 2/3, 2/4 and 2/5 were approved subject to the Subdivision Committee recommendations.

JOHNSON moved, **LOPEZ** seconded the motion, and it carried unanimously (9-0).

2/1. SUB2000-121 – One-step Final Plat of TOBEN 5TH ADDITION, located on the north side of 39th Street North, west of Webb Road.

- A. The Applicant shall guarantee the extension of City water and sanitary sewer to serve the lots being platted.
- B. City Engineering needs to comment on the need for additional guarantees, easements, or drainage reserves. The drainage easements within Lots 4, 5 and 6 shall be platted as reserves.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. If any of this site's drainage is directed onto the adjacent railroad right-of-way, a letter shall be provided from that railroad indicating the willingness to accept such drainage. The drainage plan is approved. Additional calculations are required.
- E. Traffic Engineering has approved a joint access opening between Lots 11 and 12, Block 1 and also one opening for Lot 1, Block 1. Seventy-five feet of complete access control is required along Lot 1 from the internal street. A joint access easement needs to be established by separate instrument. Distances should be shown for all segments of access control. The final plat shall reference the access controls in the plat's text.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- G. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The Fire Department needs to comment on the plat's street names. The street names are acceptable.
- I. The 25-ft building setback platted for Lot 1, Block 1 is incorrectly labeled as 35-ft.
- J. If platted, the building setbacks may be a minimum of 20 feet to conform with the LI District zoning standards.
- K. The north half of 41st Street, adjacent to the north line of the plat, is not open and should be vacated. The Applicant shall contact the property owners to the north to attempt to have this right-of-way vacated. A portion of this street right-of-way will need to be retained as a hammerhead turnaround for Linden Drive.
- L. A guarantee for the future construction of a turnaround for Linden Drive is required.
- M. The applicant shall guarantee the paving of the proposed interior streets to the urban industrial street standard.
- N. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.
- X. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

2/2. SUB 2000-85 – Final Plat of THE FAIRMONT ADDITION, located north of 21st Street, west side of 127th Street East.

- A. As this site is adjacent to Wichita's City limits, the Applicant shall submit a request for annexation. Prior to this plat being scheduled for City Council review, annexation of the site will need to be completed. Upon annexation, the property will be zoned SF-6, Single-Family Residential and thereby permit the lot sizes being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.

- C. The Applicant shall guarantee the extension of City water and sanitary sewer to serve the lots being platted.
- D. City/County Engineering needs to comment on the status of the applicant's drainage plan. County Engineering needs a drainage plan for review. City Engineering has approved the drainage plan. A guarantee is required for improvements. Off-site drainage easements will be needed.
- E. City Fire Department needs to comment on the plat's street names. The street names shall be revised in accordance with Fire Department's request.
- F. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements.
- G. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- H. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- I. Various lots in this plat exceed the maximum lot width to lot depth ratio of 2.5 to 1. A modification has been approved by the Subdivision Committee.
- J. County Engineering needs to comment on the need for improvements to 127th St. East. County Engineering requires a petition to guarantee paving improvements to 127th St. East from the nearest paved segment and the southernmost entrance to the plat. Project estimate shall include costs for relocation of pipeline if required and parallel pipeline(s) in road right-of-way.
- K. The Applicant shall guarantee the paving of the interior streets. The paving guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- L. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- M. An off-site cul-de-sac dedication shall be provided by separate instrument for the terminus of Boxthorn Court.
- N. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities. This covenant shall also provide for the Homeowners' Association to maintain the "parking strip" located between Reserve B and the driving surface for 127th St. East.
- O. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- P. The pedestrian access and drainage easement being platted in the southwest corner of the plat to Reserve M, should be relabeled as a maintenance and drainage easement and referenced in the plat's text.
- Q. The signature line for the County Clerk needs to be revised to reference "Don Brace".
- R. The signature line for the MAPC Chairman needs to be revised to reference "Christopher S. Carraher".
- S. The blocks will need to be redesignated as two blocks are labeled "E".
- T. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- U. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- V. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- W. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- X. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Y. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Z. Perimeter closure computations shall be submitted with the final plat tracing.
- AA. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- BB. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.
- CC. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.
- DD. Traffic Engineering has requested that Reserve D be increased at the intersection of Boxthorn and Davin Lane to allow for sufficient site distance.

2/3. SUB20001-04 – One-Step Final of REMINGTON PLACE ADDITION, located east of Webb, on the south side of 21st Street North.

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. City Engineering needs to comment on the need for any additional guarantees or easements. An additional 5-ft utility easement is required along the west line of Lot 12, Block 4. A sanitary sewer layout is requested.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. The drainage easement located within Lot 1, Block 1, needs to be platted as a Reserve. Off-site drainage easements need to be established by separate instrument. A drainage guarantee is required. Minimum pad elevations need to be platted for the lots abutting detention ponds.
- E. Traffic Engineering needs to comment on the access controls. The plat proposes one access opening along 21st St. North. Access controls are approved.
- F. The off-site utility and drainage easement will need to be established by separate instrument.
- G. The off site wall easement will need to be established by separate instrument.
- H. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- I. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- J. The wall easements should be referenced in the plat's text.
- K. The parking easements shall be referenced in the plat's text specifying that the easements are granted for residential parking only and that no obstructions shall be constructed or placed within the easements.

- L. The pipeline easements should be denoted on the final plat tracing.
- M. The Subdivision Regulations discourage the inclusion of pipeline easements within the perimeter of urban scale lots. The pipeline easement in Lot 22, Block 3 shall be included within a Reserve. The pipeline easement located in Lot 1, Block 6 shall be referenced in a restrictive covenant.
- N. The Applicant shall guarantee the paving of the proposed interior streets to the urban street standard. Sidewalks shall also be provided along one side of the 64-ft through street.
- O. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- P. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- Q. The street names need to be approved by the City Fire Department.
- R. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32 or 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- S. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- T. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- U. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- V. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- W. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- X. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- Y. Perimeter closure computations shall be submitted with the final plat tracing.
- Z. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- AA. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.
- BB. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

2/4. SUB2001-01 – One-Step final Plat of THE LOCHS AT ABERDEEN, located on the north side of 21st Street North, east of 119th Street West.

- A. The applicant shall guarantee the extension of sanitary sewer and municipal water to serve the lots being platted. City Engineering needs to comment on the need for additional guarantees or easements for the site. A respread agreement is required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the

Planning department for recording.

- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A drainage guarantee is required. Minimum pad elevations need to be plattd.
- D. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- E. For those reserves being plattd for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- F. The parking areas intended for Reserves A and B shall be shown on the plat as "parking easements". The easements need to be at least 20-feet deep and no wider than 50 feet. The plattd's text shall also reference the platting of these easements.
- G. Because of the landlocked nature of Reserves A and B, a means of access should be provided.
- H. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- I. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street, drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- J. City Fire Department needs to comment on the plat's street names. The street names are approved.
- K. The plat consists of lots that contain under 6,000 sq. ft., the minimum lot standard of the SF-6 district. The Cluster Development option in the Subdivision Regulations require that any reduction in lot size is offset by the provision of permanent open space. The Applicant has indicated that the amount of open space provided in the Reserve A (42,088 sq. ft.) exceeds the cumulative total reduction in lot area (13,684 sq. ft.). In accordance with the Subdivision Regulations, the Applicant shall submit specific area calculations for each such lot.
- L. The MAPC Policy Statement regarding Cluster Development states that each open space area shall be a minimum of 10,000 square feet and that no lot reduced in area shall be more than 500 feet from the nearest open space area. Lots 24, 43 and 44, Block 1 are not located within the required 500 feet from Reserve A. A modification from this design standard has been approved by the Subdivision Committee.
- M. In addition to the standard restrictive covenant required per Item D above, the Subdivision Regulations require the submittal of a restrictive covenant addressing the Reserves associated with the clustering development. The covenant shall ensure that the open space will not be further subdivided in the future, that the use of open space will continue in perpetuity, and that the common undeveloped open space shall not be turned into a commercial enterprise admitting the general public at a fee.
- N. The applicant is advised that the side yard setback may be reduced to 10 feet through cluster development.
- O. In accordance with the Subdivision Regulations, maintenance/emergency access easements shall be plattd for development of the zero lot line dwellings. The easements shall be a minimum of five feet in width and referenced in the plattd's text with the language as specified in the Subdivision Regulations.
- P. The applicant shall guarantee the paving of the proposed interior streets. The guarantee shall also provide for sidewalks along one side of continuous non-cul-de-sac streets.
- Q. Lot 7, Block 1 exceeds the maximum lot width to lot depth ratio of 2.5 to 1. A modification has been approved by the Subdivision Committee.
- R. The plat does not meet the minimum standards adopted by the Kansas State Board of Technical Professions (Regulation #66-12-1, K.S.A. 74-7037): Plat or Certificate of Survey, item #3, #4, #5, #6, and #10.
- S. The applicant proposes to tie together Lot 45, Block 1 by restrictive covenant with the adjoining Evangel Assembly of God Addition. This covenant will need to be provided since the lot is currently landlocked.
- T. The 15-ft drainage and utility easements adjacent to the 32-ft rights-of-way need to also be labeled as street

easements.

- U. Lots 19, 24, and 44, Block 1 have missing dimensions.
- V. The easements on Reserves A and B need to be labeled.
- W. The legal description needs to be revised as follows: Line 2, (N89°44'W) needs changed to (S89°59'44"E). Line 10 (N44°23'18" E) needs changed to (N44°23'18"W). Line 16 (being north of) needs changed to (being west of).
- X. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- Y. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Z. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- AA. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- BB. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- CC. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- DD. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- EE. Perimeter closure computations shall be submitted with the final plat tracing.
- FF. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- GG. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.
- HH. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

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- 2/5. **DED2001-01** – Dedication of a Utility Easement for property located on the south side of Central, west of Ridge Road.

LEGAL DESCRIPTION: A 20-wide sewer easement being 10' left and right of the following described centerline:

That part of Lot 4, Block K, Meadowview Estates, an Addition in Sedgwick County, Kansas, described as commencing at the SE corner of said Lot 4; thence west along the south line of said Lot 4, 235.51' to the P.C. of a curve to the left, having a radius of 1080'; thence westerly along said curve and through a central angle of 3° 58' 52", an arc distance of 75.04' for a place of beginning; thence northerly along a line radial to said curve, 10' for a point of termination.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2000-125 and is being dedicated for construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

- 2/6. **SUB2001-02** - Preliminary Plat of SILVERCREEK ADDITION, located on the northwest corner of 23rd Street South and 231^{re} Street West.

- A. Since neither municipal water nor sanitary sewer is available to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities and water wells. A memorandum shall be obtained specifying approval.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. County Engineering needs to comment on the status of the applicant's drainage concept. A drainage plan is required to be submitted which includes terraces. Cross-road culverts should be shown. The applicant shall coordinate the removal or modification of terraces with NRCS.
- D. County Engineering needs to comment on the access controls. The plat proposes two joint access openings along 23rd St. South, and two joint access openings along 231st St. West. The complete access control proposed along 231st St. West needs to be labeled.
- E. It is recommended that the applicant plat a 70-ft right-of-way along the south line of Lot 5, in order to provide internal access to Lots 1 through 4 in addition to creating a street connection between this plat and the adjoining property. Complete access control would be required along 23rd St. South. A guarantee for the installation of the internal street to the suburban street standard would also be required.
- F. In lieu of Item E, the applicant shall provide a 70-ft contingent dedication of street right-of-way between Lots 5 and 6 or Lots 7 and 8 in order to provide potential street connection between this plat and adjoining property. The contingent dedication shall be referenced in the plat's text.
- G. The dedication of street right-of-way shall be referenced in the plat's text.
- H. The joint access openings shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.
- I. The lots exceed the maximum lot width to lot depth ratio of 2.5 to 1. A modification will need to be approved by the Subdivision Committee.
- K. The legal description has not been provided.
- L. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.

- V. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

Osborne-Howes arrived at the meeting at 1:20 p.m.

NEIL STRAHL, Planning staff "This is an appeal, up to now, of the preliminary plat of the Silvercreek Addition. The preliminary plat was reviewed by the Subdivision Committee. The plat is located in the County in the northwestern corner of 23rd Street South and 231st Street West. It is a 40-acre site zoned 'RR' Rural Residential. The applicant proposes 8 lots, 4 lots on the east side of the plat along 231st Street West and 4 lots on the south side of 23rd Street South. Each lot contains approximately 5 acres. At the Subdivision Committee meeting staff had recommended eliminating these multiple openings onto the section line road in accordance with both our Comprehensive Plan and our subdivision regulations. A development of an internal street system with a right-of-way, located right here (indicating) along the northern line of the southern lots would be recommended to promote an orderly pattern of development.

The applicant objected to providing such an internal road and also objected to providing contingent right-of-ways that staff suggested could be located either here or here (indicating) for connections to the west where there is currently is undeveloped land. So, due to the applicant's objections, in addition to the excessively narrow lots, which violate our Subdivision regulations, the Subdivision Committee voted unanimously to deny the plat. The applicant is here today and has appealed the decision. That concludes staff's comments."

MICHAELIS "Are there any questions for staff?"

JOHNSON "So there is no additional information since the Subdivision Committee meeting? Has there been any other discussion with the applicant?"

STRAHL "The applicant has briefly met with me today and suggested that he would like to have the denial reversed to a deferral to allow him to redesign the plat. My understanding is that at this point, he may be receptive to installing the requested street."

MICHAELIS "Okay, thank you. Are there any further questions of staff? Thank you, Mr. Strahl. Could we hear from the applicant?"

RAY HODGE "I am an attorney here in town. For the last 30 plus years, my wife and I have owned 240 acres at that location, and we lived on it. Early last year, I developed severe health problems that mandated that we move into the city where the property would be taken care of from the outside of the home outward, which meant lawn mowing and taking care if it. We elected then to sell the land. Most all of the land has been sold off with the exception of the original home site. This was originally two 20-acre plots. There were 40 acres there and I planned to sell it in 20-acre plats. The church asked for a grant of land for a contribution and I gave them a 20-acre tract of land, but it didn't come out of this here.

People came to me and asked for the opportunity to buy 5 acres so that they could have a horse and be out in the country. So reluctantly, I asked Mr. Bishop to assist me in drawing these. At the time I was under the impression that you had to have a full 5 acres and I resisted the road. I resisted the road because of another problem that I think. You know gasoline and diesel fuel is extremely high. What I had planned was that each lot would be served by one entrance. There is already an entrance to the field down here, so we would only be gaining one entrance to 231st Street. On 231st Street, there are only 6 residence openings in a full mile, so we are talking about adding one more drive in an entire mile. It is a country setting, it lies between Goddard and Garden Plain. I have talked to the Chairman of the Goddard Planning Commission and they find no objections to the plan at all.

There are already two entrances here on 231st Street. So my plan was to utilize the two entrances that are there. I would oppose developing land, which would be inverse condemnation, to come back here to a land that I just sold. I don't think they want to develop the land, but I certainly don't want to be compelled to give land that I own to someone else to develop and use. This is only 700 feet because it is only \$5,000 or \$6,000 to put the road in, which is trivial. It is not the cost of it, gentlemen; what I am telling you is that I think that the cost to maintain this road when I build it to county standards for a millennium when gas is so high, is outrageous. What do we gain? You gain the lack of one entrance over here (indicating). That is all you gain.

Now why the narrow lots? I checked and your regulations have not been enforced equally. In other words, you have approved lots similar to this. You have approved lots that measure 200 feet. This measures 272 feet. The reason for the narrow lots is because it fits the land. But there is another reason for that. If a person wants to raise horses, what do they do with them—and you are permitted on 5 acres way out in the country—they put them on the back of the lot. A narrow lot is desired. I took exception to the denial and I will continue to take exception to any denials. I am asking you to approve the plan the way we submitted it. If you can't do that, then the alternative is to remand it back for us to attempt some redesign. But folks, if we look at the cost of gasoline and oil to maintain 700 foot of road and put it on the county, I don't know why the county doesn't throw a fit.

Now, I assume that some of these other restrictions in here have been bypassed, like putting in a fire hydrant. There is no water out there. When I was a kid, my uncle wanted everybody to think he had some money so he took a pipe and drove it into the ground and put a faucet on it so everybody would think he had running water. He didn't. That is what I would have to do with your fire hydrant. I would just simply have to drive it in the ground because there is no water there. The

only water they can get is through a drilled well. Are there any questions? You are gaining no entrances or exits. There is already two here, so there are no additions or subtractions to my original plat. There is an entrance on the corner that I have locked up because the people would drive down it and make a lovers' lane out of it. So we would just be putting one less strip on 23rd Street South. Again, that would make 7 entrances in an entire mile. It is an unpaved road. Do you have any questions?"

MICHAELIS "Are there any questions for Mr. Hodge?"

GAROFALO "Mr. Hodge, would you point out exactly where the openings are, and are there dirt roads or something going in? You just said something about openings."

HODGE "On 231st Street, I had an opening here (indicating), an opening up here and an opening approximately right in here. Mr. Bishop, is that about right, to the field?"

BISHOP "To the best of my knowledge."

HODGE "These already have driveways in them. What I would do is I would use one driveway through here (indicating) and the other driveway for here. So you would be adding no new driveways. In fact, I think you would technically be creating three. You would have two that were already there, plus one, and then down here, of course, you would have none (indicating), but there is already one here. Since that is already one, that is there. I would be moving this over to here for one driveway that serves two lots. You see, both lots are served as this driveway and both lots are served as this driveway. So on 23rd Street South, we would be adding one additional roadway because there is already one there. We would be adding one additional roadway to 23rd Street South."

JOHNSON "How do you propose to get to that second lot from the top there?"

HODGE "There will be a driveway serving this lot and this lot (indicating)."

JOHNSON "I thought you said the driveway was at the top."

HODGE "I will just move it down one."

JOHNSON "Okay."

HODGE "I will take it out and move it down one. The City's original plan is to have this entrance here, (indicating) this entrance here, and this entrance here. So the City's plan would add another driveway into 231st Street West. I took exception to it because of the cost of maintaining the road predominately. I also took a little bit of exception to it because I thought you had to have 5 acres to put it in. Mr. Bishop told me that it was 4-1/2 acres to meet the requirements. This would take 4-1/2 acres."

MICHAELIS "Are there any further questions for Mr. Hodge? Thank you. Is there anyone else in the audience that would like to speak in favor of this? Is there anyone who would like to speak in opposition to it? Seeing none, we will bring it back to the Commission."

LOPEZ "Marvin, what is your opinion to what you have just heard?"

KROUT "Neil, you were at the Subdivision Committee meeting. I know that if you built that street, I would assume that you would be removing one of the access points, the one that is immediately to the north, so I don't think that there would be 3 access points along 231st Street, would you want to chime in on this?"

STRAHL "The biggest advantage to our scheme is that you would be eliminating all of the access points along the street to the south with access from the new internal street. You would have these 4 lots accessing and also a lot to the north. It is true, you would actually be adding an additional opening with a new street because the proposal was for a joint access for these two lots and another joint access right here. So actually, there would be an additional opening for the new street which you are gaining by having no access at all to the south."

KROUT "I guess the other point is that you are providing access to the interior of the section and I think that someday that interior is going to subdivide, and so even though the street looks like it is not going anywhere today, it will probably be, at some point, the fastest and easiest way to get out from the interior of the section line out to a mile line road. So eventually, there is going to have to be a road and access that is going to have to be built to allow the subdivision a further lot to the interior."

MICHAELIS "Are there any other questions of staff?"

GAROFALO "I have a question of Mr. Hodge."

MICHAELIS "Mr. Hodge, can you come back up?"

GAROFALO "Neil mentioned that you were asking for a deferral so that you could work something out on the road. On which road?"

HODGE "I gave him a plan that was drawn up that would put the road in here (indicating). I showed him to see if that would help comply with what the Subdivision Committee wanted. I just sold some land. That is this land back in here. They have a roadway north of my land back to their land. So I see no need of this and this (indicating) because there is already an existing road up there."

MICHAELIS "Does that answer your question, Mr. Garofalo?"

GAROFALO "I guess, but I am not clear if you are asking for a deferral or not."

HODGE "Well, I am asking for one of two things, sir. I am asking that you approve my plan the way I submitted it, and if you can't approve my plan, then defer it so that we can try to work something out."

HENTZEN "Talking about that road, the cul-de-sac there. That would be a township road and not a county road, wouldn't it?"

KROUT "Township road."

HENTZEN "And the township roads don't have to have blacktop on them, right?"

KROUT "That is right. It can be gravel."

WARREN "We have spent a lot of time here talking about roads, road systems, access from the main roads versus an interior road, but actually what I heard from the Subdivision Committee was an objection to this 272 x 800. I would agree with Mr. Hodges that those kind of plats have been approved in the past. Several of them. And I would agree that for the most part, they are a mistake. Once we recognize this type of error in platting and planning, I see no reason why we have to continue on with it. He is right, there are a few people that would like to have a long, narrow lot for horses, but there are a lot of other people that get a long, narrow lot only because they need 5 acres and they don't take care of the back end of it, and it becomes an eyesore to the whole community."

What I heard in that meeting was a lack of support to approve the 2-1/2 to 1 ratio for these lots and advise you to go back and redesign these lots so they don't have this long, narrow concept. That is what I heard more objection to than I did egress/ingress, access, or road system. In fact, I made the motion to that effect."

MICHAELIS "Are there any other comments?"

PLATT "We have heard the comment about the importance of providing roads to serve these lots, which I think are terribly important because certainly in 30 or 40 years, I can anticipate that the area in the center of this quarter section is going to be developed. And not to start to create an orderly system of streets to service it is going to produce a mess in the future."

I would simply add to that that I think we can also anticipate that these lots, also at some time in the future, will be subdivided and so we have to be thinking about how we are going to provide a street system to service them. On that basis, I think that the plat is not at all envisioning an orderly development of agricultural land into urban land. That is what we must insist on."

MICHAELIS "Are there any further comments?"

HENTZEN "I would like to ask, how far is this from Garden Plain and how far is it from Goddard? How many miles."

HODGE "It is about equal distance between Goddard and Garden Plain."

HENTZEN "About how many miles?"

HODGE "I would say about 2-1/2 miles from Goddard and 2-1/2 miles from Garden Plain. I am in the Goddard zone of influence. They have no objection. This is all rural."

MICHAELIS "Okay. If there are no further comments, what is the pleasure of the Commission."

MOTION: That the item be deferred back to Subdivision to give the applicant and staff a change to work out the differences.

MARNELL moved, **HENTZEN** seconded the motion, and it carried unanimously (10-0).

3. Public Agenda: James Mendenhall presentation regarding future highways linking Wichita to other National and International regions.

MICHAELIS "Mr. Mendenhall, you may address the Commission."

Mr. Mendenhall presented a concept to create a new highway in Kansas. His proposal involves a route that would provide a half circle bypass west of Wichita, linking the Turnpike with K-96 north of town. Next, K-96 would be upgraded to Hutchinson with a similar bypass there. Finally a green-field 6-lane highway would be constructed to reach Big Springs, Nebraska and access I-80. Further, new rail and pipelines (oil, gas, water, fiber optic and electricity) would be run adjacent to the large pathway. Special consideration will be given to truck traffic and the wireless nature of communications that will be state-of-the art.

According to Mr. Mendenhall, this highway concept would build upon the unique geography of Kansas to join the rapidly growing regions of the Gulf Coast with the Pacific Northwest. The trip would save 100 miles between Dallas and Cheyenne. Many Kansas counties will have new economic development opportunities directly, and others will benefit from increased freight traffic north of Oklahoma City to Kansas City and the nations' Northwest.

He stated that a plan may be studied by KDOT if a bill can be supported and funded by the legislature this term. With a good study, the next Federal Highway bill will come in two years, and funding might be considered then. It is important that the future value to Kansas of this National route be expressed to the Senate and House of Representatives.

As a result of this intermodal arrangement, a National air cargo hub could become more likely at Wichita requiring a large building effort in the near future. Mr. Mendenhall encouraged the Planning Commission to support this plan in the interest of jobs and economic growth of the region.

JERRY MICHAELIS, Vice-chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning and vacation items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

- 4. **PUD2001-00001 PUD #4- Envision Amendment #1** - Envision c/o Linda Merrill, CEO and Bob Faris, Secretary (Owner); Evans Building Company, Inc., c/o Bill Johnson (agent); Baughman Company, P. A. c/o Russ Ewy (agent) request to amend PUD #4 Envision to combine development into one parcel, eliminate residential uses, increase non-residential building area and adjust manufacturing uses on property described as:

Lots 1 and 2, Block A, Envision Addition, Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Pawnee and Water.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

The applicant is proposing to amend PUD #4 Envision to allow expansion of its current rehabilitation and training center for persons with low-vision and who are blind and other persons with physical or mental handicaps that are unable to drive. This center is located on the northwest corner of Pawnee and Water Street.

The PUD was originally approved for the rehabilitation/training center on Parcel 1 and associated residential uses on Parcel 2. There is an existing 78,000 square foot building on Parcel 1, but the residential uses on Parcel 2 have not been developed. The proposed amendment would combine Parcels 1 and 2 into a single parcel and eliminate residential uses. Total building area for the rehab/training center would be increased to 126,215 square feet, for a 30% building coverage. The proposed addition would be situated along the western portion of the existing building and extend southward toward Pawnee. As shown on the proposed PUD development plan, the expansion would maintain a generous setback of approximately 190 feet, significantly more than the required 100-foot setback. The building would be approximately 30 feet from the western property line, which complies with the existing setback on the west of 25 feet.

The applicant proposes to expand the types of uses associated with the rehabilitation and training center. Specifically, the amendment would allow a retail center within the building for the sale of specialty products for persons with low-vision or who are blind. Also, it would expand the permitted types of to include "limited metal fabrication", plus allow that additional uses similar in nature and intensity to these existing uses could be added by administrative adjustment.

Several minor changes also have been incorporated into the revised PUD development plan. Emergency access to Wichita Street is eliminated since the site already has two points of access on Water Street. Public Works had previously approved the removal of this emergency access on Wichita Street. The screening requirement on the north property line was shifted from a wrought iron fence to a six-foot masonry wall, which is the type of screening already installed by Envision.

A gazebo is planned for the southwest corner of the property, as a part of a sensory nature trail for the clients working and training at the center.

No additional parking is proposed. Parking needs are low since the clients do not drive. During a recent site inspection, approximately 25 % of the parking spaces were vacant.

The surrounding area is developed with single-family dwellings on the north, east, and northwest. The Greenway Park Apartments, an apartment complex, are located directly west of the proposed building expansion area. Herman Hill Park is located to the south of Pawnee.

CASE HISTORY: The Wichita City Council approved Envision Planned Unit Development #4 on November 24, 1998. MAPC approved the exterior building materials on August 26, 1999. The property is platted as Envision Addition, recorded June 24, 1999.

ADJACENT ZONING AND LAND USE:

NORTH:	"TF-3"	Single-family residences
EAST:	"TF-3"	Single-family residences
SOUTH:	"TF-3"	Herman Hill Park
WEST:	"MF-29" and "TF-3"	Apartments and single-family residences

PUBLIC SERVICES: Transportation access is via Pawnee, a four-lane arterial street. In 1997, average daily trips on Pawnee were 21,361. Traffic is projected to increase modestly to 23,255 daily trips in 2030. Most clients traveling to the site use bus service. Other municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan shows the site as "public/institutional". The expansion of the building would be in conformance with the land use guide. The area is designated as a "revitalization" area on the Wichita Residential Area Enhancement Strategy Map of the Comprehensive Plan.

RECOMMENDATION: Based on the information available prior to the public hearing, Staff recommends the application be APPROVED subject to the following conditions:

1. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
2. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
3. The applicant shall submit 4 revised copies of the PUD. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is already approved as a Planned Unit Development for a rehabilitation and training facility with similar manufacturing activities allowed within the center, but also for associated residential use. The surrounding property is zoned "TF-3" Two-Family Residential and developed with single-family homes on the east, north and northwest. Apartments, zoned "MF-29", are located to the west. Herman Hill Park, zoned "TF-3" is to the south.

2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as approved by the existing PUD. This would limit the expansion of the main rehabilitation and training center, therefore limiting the expansion of training and employment opportunities to persons with low vision or who are blind or with other physical or mental disabilities but who do not drive. Unless the amendment is approved, the northeast parcel (Parcel 2) of the existing PUD would be restricted to residential use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The location of the expansion on the west and south of the existing structure is nearest the apartments on the west and Herman Hill Park. The western property line already is screened and buffered by a six-foot masonry wall and landscaping. The expansion should not significantly impact the single-family residential areas to the northwest, north and east other than by a slight increase the number of potential clients traveling to the site, primarily by bus transportation.
4. Length of time the property has remained vacant as zoned: The property has been developed during the past two years with a rehabilitation and training center that includes manufacturing (limited to certain types) and warehousing activities. Parcel 2, the residential parcel, has remained vacant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Comprehensive Plan shows the property for public/institutional use, which is in conformance to the requested amendment. The development of this property provides an institutional use across Pawnee from a parks and recreation use, Herman Hill Park. While residential uses are in close proximity to the property on the north, east and west, the limitations of the PUD reduce conflicts with the adjacent residential areas.
6. Impact of the proposed development on community facilities: The site will have a limited impact of increased traffic, primarily buses, bringing clients to the site. Other municipal services already are extended to the site.

JOHNSON "I will be abstaining on this item, as I have a conflict of interest."

DONNA GOLTRY, Planning staff "This case is a request to amend the Envision Planned Unit Development (PUD). Envision is a Planned Unit Development to serve clients primarily with low vision, or who are blind with rehabilitation and training services. It is located on the northwest corner of Pawnee and Water Streets.

The application is to expand the existing training facility that is located on the site. They currently have about a 78,000 square foot building and originally it was platted as two lots. The lot where the building is located was Lot 1 and there was a second lot, Lot 2, which was originally envisioned as being for residential units. The nature of this application is to eliminate the residential component and instead to allow expansion of the existing building to the west and to the south, toward Pawnee.

In addition to that request, they have a few other minor changes that they would like to incorporate within the Planned Unit Development. One is to allow a retail center within the building for the sale of specialty products to persons of low vision or who are blind. A second is a clean-up type item; that is that originally they were required to have emergency access from Wichita Street. The need for that has been eliminated. It has already been agreed to by Public Works previously, so that has been incorporated into the revised PUD drawing.

Thirdly, the screening requirement was originally for a wrought-iron fence along the north and now they would like to have it be a screening wall, which is what they have in place. Fourth, they would like to be able to have a gazebo south of the building, between the building and Pawnee. This gazebo will be incorporated within a sensory walking path that they would use for the people with low vision. Also, I would note that there is no additional parking that is incorporated within the request because due to the nature of the clientele, they have a fairly low parking demand. Most of the clients travel to the site by bus. When I did a site inspection and counted parking spaces, I found at least a 25% vacancy rate the day I was there, so it did appear that there was ample parking.

We find it to be in conformance with the Comprehensive Plan for public institutional uses and recommend approval of the PUD, subject to the PUD drawing you have attached with one slight correction that I will point out to you, and subject to findings in the staff report. I would like to also point out that there is one part of the development plan that would be General Provision No. 14, which still incorporates some language, talking about Parcel 2. That sentence should be stricken since there would no longer be a Parcel 2.

The surrounding area is zoned 'MF-29' to the west of the site. To the west are the Greenway Apartments, and then to the northwest there are single-family homes that are on the other side of the existing screening wall. Directly to the north are some more single-family homes. To the northeast is single-family housing. There is quite a berm between this building and Pawnee. It is pretty well sheltered. On the south façade are the dock areas, and there are houses across the street.

I did omit one other change that they have requested, and that is that when the PUD was originally approved, it allowed a few types of limited manufacturing activities. They have asked for the addition of one more type of limited manufacturing activity and that would be limited metal fabrication. I will stand for any questions."

MICHAELIS "Are there any questions of staff?"

GAROFALO "Ms. Goltry, the expansion won't eliminate a bunch of trees or anything, will it?"

GOLTRY "No. The very first slide I showed you where there is a grassy area, that is where the majority of the expansion is going to be. They are still required to have a 20-foot buffer of trees, according to their landscape plans, and according to the PUD. They are going to be set back about 33 feet from the property line on the west."

MICHAELIS "Are there any further questions? Thank you, Ms. Goltry. Could we hear from the applicant, please?"

RUSS EWY "I am with the Baughman Company, the agent for the applicant. Also in attendance is Linda Merrill, and Bob Faris of Envision, if you have any questions to direct to them. Donna did a pretty thorough job in the staff report and in her discussion of what we are trying to accomplish here with this expansion. The expansion will bring the total site building area to just over 110,000 square feet. As proposed, I think we are not trying to increase the use to anything that would be out of the ordinary or not in keeping with the intensity of the existing operations. I think it is a nice expansion of a very good use for the City. I think if you have ever had the opportunity to drive out and look at the property that you understand that it is developed in a first-class manner.

Not to take up too much of your time being that the staff report was pretty thorough, I will stand for any questions that you may have."

WARREN "Maybe this is more for Marvin. When you do this, do we modify an existing PUD or do we just file a new PUD?"

KROUT "It is modifying the existing PUD. And just like an amendment to the CUP, it stops at this point unless a new ordinance is required. Isn't that right Dale, it doesn't have to go to the City Council?"

MILLER "This is a zoning issue. It would have to go to the City Council."

KROUT "Okay, so it is a new ordinance."

WARREN "So the major modification is increasing the building size to 126,000 feet to include the metal fabrication."

KROUT "To widen the uses that are permitted."

BARFIELD "I am just curious. Why are we eliminating the residential portion of this?"

EWY "I think that was something that had been planned, and if I am wrong, perhaps Ms. Merrill can correct me. I think when we worked on this in the fall of 1998 that there had been preliminary plans on perhaps having some of their clientele living on site, just to make their trip to work or trip for therapy a little more convenient. Due to the size of the property at that time, and really without knowing how well this was going to be received, I think that they had just worked on an idea that they would use the northern portion, at that time, the unused northern portion for perhaps this residential component. As it turned out, that never came to fruition, and I think as you are seeing here through this amendment, they are needing that tract of land to be expanded for the rehabilitation and training services. So, I think it was just an idea that never came to see the light."

LOPEZ "Can you define limited metal fabrication? What does that entail?"

EWY "I probably can't define it as well as Marvin and Kurt can in the future, but again, we felt that the predominant manufacturing uses with plastics-type products, they had seen perhaps a potential to expand their limited manufacturing to used materials that are not simply plastic materials. So they had a concern that at some point that they were going to expand their operations to involve manufacturing or the assembling of something as simple as requiring nuts and bolts perhaps. There will be no type of metal fabrication as we have seen with the aircraft industry or anything like that. It would be metal fabrication in support of or as a part of a larger plastic manufacturing type of operation."

MICHAELIS "Are there any further questions? Thank you, Mr. Ewy. Is there anyone in the audience who would like to speak on this issue? Seeing none, we will bring it back to the Commission. "

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The property is already approved as a Planned Unit Development for a rehabilitation and training facility with similar manufacturing activities allowed within the center, but also for associated residential use. The surrounding property is zoned "TF-3" Two-Family Residential and developed with single-family homes on the east, north and northwest. Apartments, zoned "MF-29", are located to the west. Herman Hill Park, zoned "TF-3" is to the south. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as approved by the existing PUD. This would limit the expansion of the main rehabilitation and training center, therefore limiting the expansion of training and employment opportunities to persons with low-vision or who are blind or with

other physical or mental disabilities but who do not drive. Unless the amendment is approved, the northeast parcel (Parcel 2) of the existing PUD would be restricted to residential use. Extent to which removal of the restrictions will detrimentally affect nearby property: The location of the expansion on the west and south of the existing structure is nearest the apartments on the west and Herman Hill Park. The western property line already is screened and buffered by a six-foot masonry wall and landscaping. The expansion should not significantly impact the single-family residential areas to the northwest, north and east other than by a slight increase the number of potential clients traveling to the site, primarily by bus transportation. Length of time the property has remained vacant as zoned: The property has been developed during the past two years with a rehabilitation and training center that includes manufacturing (limited to certain types) and warehousing activities. Parcel 2, the residential parcel, has remained vacant. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Comprehensive Plan shows the property for public/institutional use, which is in conformance to the requested amendment. The development of this property provides an institutional use across Pawnee from a parks and recreation use, Herman Hill Park. While residential uses are in close proximity to the property on the north, east and west, the limitations of the PUD reduce conflicts with the adjacent residential areas. Impact of the proposed development on community facilities: The site will have a limited impact of increased traffic, primarily buses, bringing clients to the site. Other municipal services already are extended to the site.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
2. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
3. The applicant shall submit 4 revised copies of the PUD. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

HENTZEN moved, **GAROFALO** seconded the motion, and it carried unanimously (9-0). Johnson abstained. Anderson, Carraher, McKay and Warner were not present.

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5. **CON2001-00001** - Ascension Lutheran Church (Owner/Applicant) Baughman Company, PA, Phil Meyer (Agent) request a Conditional Use to allow for a day care center and preschool, on property described as:

The East 400 feet of the North 1089 feet of the Northwest Quarter, Section 25, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, except the North 30 feet for road. Generally located on the south side of Maple between 119th Street West and 135th Street West.

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant, Ascension Lutheran Church, is requesting a Conditional Use to operate a "daycare, general" program on a platted [Ascension Lutheran Church 2nd Addition] 9.56-acre tract of land. The tract is currently undeveloped although there has been some grading on the site. The applicant plans to construct a new building (see attachment). This property is zoned "SF-6" Single-Family Residential and is located on the south side of Maple between 119th Street West and 135th Street West. There is one access point along the south side of West Maple to the application area. According to the applicant, 125 parking slots are required by the Unified Zoning Code (UZY). There are, however, 142 parking slots depicted on the site plan (see site plan).

The Unified Zoning Code (UZY) defines "daycare, general" as "an establishment that provides care, protection, and supervision for more than 10 individuals at any one time, including those under the supervision or custody of the day care provider and those under the supervision or custody of employees."

The Ascension Lutheran Church is seeking to operate a daycare program that would serve approximately 60 infants and children up to age six. Additionally, a half-day preschool program (a.m. & p.m.) would operate with four classrooms with a maximum of 80 children. The hours of operation will be from 7 a.m. until 6 p.m.

The daycare program will be housed in the eastern portion of the building. The office and gymnasium will be in the center of the building. The preschool, with the four classrooms, will be in the western portion of the building. The playground will

unlighted and located to the rear and southwest of the building. The site plan depicts two baseball diamonds at the southern end of the application area.

In the surrounding area, there are residential houses to the east, south, west and north, across West Maple. The applicant will need to screen and provide landscape buffers in order to comply with licensing regulations for daycare and the screening requirements in the Uniform Zoning Code. The Church's Reverend and Pastor have met with the following Home Owners Associations: a) Rainbow Lakes; b) Auburn Hills; and c) Maple Valley. The informational meetings were held in order to describe the project and respond to questions or concerns.

CASE HISTORY: The property was platted as the Ascension Lutheran Church 2nd Addition on August 9, 1977.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6" Single-Family Residential	Single-Family Residences
EAST:	"SF-6" Single-Family Residential	Single-Family Residences
SOUTH:	"SF-6" Single-Family Residential	Single-Family Residences
WEST:	"SF-6" Single-Family Residential	Single-Family Residences

PUBLIC SERVICES: West Maple, a two-lane arterial street, between 119th & 135th Streets West, had estimated traffic volumes in 2000 of 4,806 average trips per day (ADT's). The 2030 projections estimate 12,450 ADTs. Water and sewer services will be made available to the site. According to the City's 2000-2009 Adopted Capital Improvement Plan (CIP), West Maple, between 119th and 135th Streets West, will be reconstructed in 2001 to provide a four/five lane roadway. This area is experiencing rapid growth and development which is expected to continue at an even faster pace with the development of the new municipal golf course in this area.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as appropriate for low-density residential use and parkland/open space. The application area is within the 10-Year Urban Service Area and also within the 30-Year Urban Service Area. The Plan considers schools, churches, and other similar uses as appropriate in low-density areas.

RECOMMENDATION: The property will be developed in general conformance with the site plan approved by the MAPC or City Council. Based on the information available prior to the public hearing, and a site plan showing the location of the proposal daycare, general, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The daycare, general, facility shall be developed in general conformance with the site plan, attached hereto and made a part of this application.
2. The daycare shall comply with all applicable building codes of the City of Wichita and with all licensing requirements of the Wichita-Sedgwick County Health Department.
3. The maximum number of children to be accommodated at any one time shall not exceed the licensed capacity, as determined by the appropriate licensing agencies.
4. A fenced playground shall be provided as required by the Health Department licensing regulations. Outdoor play by children under the supervision of the daycare facility shall be limited to the hours between 7 a.m. and 6 p.m.
5. The applicant shall submit a Landscape Plan that meets the requirements of the City's Landscape Ordinance for review by the Director of Planning.
6. On-site parking shall be provided for the daycare as required by the UZC, which currently is one space for each teacher and employee, plus one space for each vehicle used in the operation of the center, plus one space for each ten children beyond the first twelve.
7. Signs for the daycare shall be limited to those permitted in the "SF-6" Single-Family Residential District.
8. A loading area for the daycare facility shall be provided on-site as required by code.
9. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are single-family houses located to the east, south, west and north, across West Maple, that are zoned "SF-6" Single-Family Residential.
2. The suitability of the subject property for the uses to which it has been restricted: The application area is undeveloped and zoned "SF-6." According to the UZC, single-family residential housing can be built on-site by

right. A "Conditional Use" would allow operation of a daycare/preschool facility during the weekdays plus offer needed services to the neighborhood.

3. Extent to which removal of the restrictions will detrimentally affect nearby property. The only potential detrimental effect might be the outdoor play close to the residences to the east, south and west. The effect should be mitigated by screening and buffering, and by the depth of the residential lots.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide" in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as appropriate for low-density residential use and parkland/open space. The application area is within the 10-Year Urban Service Area and also within the 30-Year Urban Service Area. The Plan considers schools, churches, and other similar uses as appropriate in low-density areas.
5. Impact of the proposed development on community facilities: The projected impact on traffic is minimal due to the low volume of potential traffic. According to the City's 2000-2009 Adopted Capital Improvement Plan (CIP), West Maple, between 119th and 135th Streets West, will be reconstructed in 2001 to provide a four/five lane roadway. This area is experiencing rapid growth and development which is expected to continue at an even faster pace with the development of the new municipal golf course in this area. Water and sewer service is adequate to handle the small demand generated by the "Conditional Use."

MILLER "Good afternoon, Commissioners. This is a request for a Conditional Use to operate a day care general, which, under the Code is defined as an operation that would have 10 or more individuals in the day care facility. The application area is located south of Maple, approximately half a mile east of 135th Street. It is a vacant tract today that is pretty much surrounded by platted and developing residential uses. The applicants indicate that they anticipate that they may have as many as 60 children there when they are fully operative.

The size is 9.56 acres in size and they indicate that their hours of operation are expected to be 7:00 a.m. to 6:00 p.m. There is a site plan that is attached at the back of your staff report that shows how this is in association with a church. The day care would be located inside the church building that is shown in the shaded area on the site plan. There is also a rendering that is on the next expanded page that will give you some idea of how they anticipate that this church and facility would look. The day care is to be located inside the church, as I said.

The Comprehensive Plan indicates that this area is appropriate for low density residential uses and park and open space areas. It is also located within the 10 year urban service area and the 30 year urban service area. Based on the number of residential lots platted in the area, obviously there are public services in the area. There shouldn't be an issue with respect to that. Staff is recommending approval, subject to the conditions found on Pages 3 and 4.

They included these other things just to show you what could happen in the future at this point, at least how they anticipate the entire site might be used. I would be happy to answer any questions if I can."

MICHAELIS "Are there any questions of staff? Thank you, Mr. Miller. May we hear from the applicant, please?"

PHIL MEYER "I am with the Baughman Company, agent for the applicant. With me here today is the Reverend Scott Golt with the Ascension Lutheran Church facility. They are the applicant on this particular case.

The Ascension Lutheran Church is looking to expand its existing facility, or congregation to a second campus--kind of a western campus. They presently have a facility at Central and Tyler road. They plan on keeping that operation in tact and opening this facility here. This is going to be a church facility, it is going to operate as a church facility from Day No. 1. They are going to use the gymnasium for holding services until such time as they do a future expansion.

We are here in front of you today to ask for a Conditional Use to allow a day care facility in conjunction with the rest of their development. That is the only use they are doing that is not allowed in the single-family zoning district and we would like the Conditional Use to allow that.

We are in agreement with all 9 of the staff comments. We have no problem there. The Reverend will be here to ask any specific questions you guys might have. Other than that, we will both stand for questions."

MICHAELIS "Are there any questions of Mr. Meyer? Thank you, Mr. Meyer. Is there anyone in the audience who wishes to speak in favor of this item? Is there anyone that wishes to speak in opposition? Seeing none, we will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: There are single-family houses located to the east, south, west and north, across West Maple, that are zoned "SF-6" Single-Family Residential. The suitability of the subject property for the uses to which it has been restricted: The application area is undeveloped and zoned "SF-6." According to the UZC, single-family residential housing can be built on-site by right. A "Conditional Use" would allow operation of a daycare/preschool facility during the weekdays plus offer needed services to the neighborhood. Extent to

which removal of the restrictions will detrimentally affect nearby property. The only potential detrimental effect might be the outdoor play close to the residences to the east, south and west. The effect should be mitigated by screening and buffering, and by the depth of the residential lots. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide" in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this area as appropriate for low-density residential use and parkland/open space. The application area is within the 10-Year Urban Service Area and also within the 30-Year Urban Service Area. The Plan considers schools, churches, and other similar uses as appropriate in low-density areas. Impact of the proposed development on community facilities: The projected impact on traffic is minimal due to the low volume of potential traffic. According to the City's 2000-2009 Adopted Capital Improvement Plan (CIP), West Maple, between 119th and 135th Streets West, will be reconstructed in 2001 to provide a four/five lane roadway. This area is experiencing rapid growth and development which is expected to continue at an even faster pace with the development of the new municipal golf course in this area. Water and sewer service is adequate to handle the small demand generated by the "Conditional Use.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The daycare, general, facility shall be developed in general conformance with the site plan, attached hereto and made a part of this application.
2. The daycare shall comply with all applicable building codes of the City of Wichita and with all licensing requirements of the Wichita-Sedgwick County Health Department.
3. The maximum number of children to be accommodated at any one time shall not exceed the licensed capacity, as determined by the appropriate licensing agencies.
4. A fenced playground shall be provided as required by the Health Department licensing regulations. Outdoor play by children under the supervision of the daycare facility shall be limited to the hours between 7 a.m. and 6 p.m.
5. The applicant shall submit a Landscape Plan that meets the requirements of the City's Landscape Ordinance for review by the Director of Planning.
6. On-site parking shall be provided for the daycare as required by the UZC, which currently is one space for each teacher and employee, plus one space for each vehicle used in the operation of the center, plus one space for each ten children beyond the first twelve.
7. Signs for the daycare shall be limited to those permitted in the "SF-6" Single-Family Residential District.
8. A loading area for the daycare facility shall be provided on-site as required by code.
9. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

BARFIELD moved, **WARNER** seconded the motion, and it carried unanimously (10-0).

6a. ZON2001-00002 - L&D Real Estate (Owner); Dan Claassen (Agent/Lessee/option to purchase) request zone change from "RR" Rural Residential to "GC" General Commercial; and

6b. CON2001-00002 - L&D Real Estate (Owner); Dan Claassen (Agent/Lessee/Option to purchase) request a Conditional Use for agricultural sales and service on property described as:

That part of the SE 1/4 of Sec. 11, Twp. 26S, R2E of the 6th P.M., Sedgwick County, Kansas, described as commencing at the S.E. Corner of said SE 1/4; thence with an assumed bearing of N 01 degrees 07' 48" W, along the east line of said SE 1/4, 495.14 feet; thence S 88 degrees 52' 12" W, 30 feet to a point on the west line of 143rd Street East as established by Condemnation Case No. 95C-1132 for a place of beginning; thence S 18 degrees 09' 36" W, along said right-of-way, 105.95 feet; thence S 01 degrees 07' 48" E, 280 feet to the north line of State Highway 254 as established by Condemnation Case No. 95C-1132; thence S 78 degrees 46' 04" W, along said right-of-way, 138.30 feet; thence S 89 degrees 07' 11" W, along said right-of-way, 410 feet; thence N 70 degrees 24' 29" W, along said right-of-way, 132.41 feet; thence N 01 degrees 07' 48" W, 355.62 feet; thence N 88 degrees 52' 12" E, 705 feet to the place of beginning. Generally located on the northwest corner of 143rd Street East and Highway 254.

DALE MILLER, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is leasing with option to buy 6.14 acres located at the northwest corner of 143rd Street North and Highway 254. The site was originally developed as a gasoline service station prior to adoption of countywide zoning. With the adoption of countywide zoning in 1985, the site was zoned "RR" Rural Residential and remains so zoned today. After countywide zoning went into effect, the service station was identified as a legal non-conforming use in the "RR" Rural Residential district. The applicant is owner of the "Fuel Outlet", a discount gasoline sales concern. The applicant fabricates the support structures and canopies utilized at each of the Fuel Outlet sites. The fabrication activities (cutting and welding of metal components) have been determined by the County Zoning Administrator to be "limited manufacturing" activities requiring "GC" General Commercial zoning. The applicant is seeking "GC" General Commercial in order to conduct "limited manufacturing" activities on this location.

According to the "Unified Zoning Code", limited manufacturing is defined as an establishment engaged in the onsite production of goods by hand manufacturing which generally involves only the use of hand tools or other equipment not exceeding two horsepower.

The closest residence is approximately 1200 feet to the northwest. Another residence is located to the north approximately 1400 feet away. All of the surrounding property is zoned "RR" Rural Residential and is either used for large lot residential or agricultural uses.

CASE HISTORY: The site has legal non-conforming status for a gasoline service station.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential; large lot residential, agriculture

SOUTH: "RR" Rural Residential; agriculture

EAST: "RR" Rural Residential; agricultural and large-lot residential

WEST: "RR" Rural Residential; agricultural and large-lot residential

PUBLIC SERVICES: Municipal sewer and water services are not available. The site is currently served by on-site services. The Health Department will have to approve the continued use of on-site services at the time of platting.

CONFORMANCE TO PLANS/POLICIES: The "Comprehensive Plan" depicts this site as "rural". Rural areas consist of land outside the 30 year Wichita urban service boundary and small city growth areas. This category of use is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. Strategy III.B4 states that in those portions of rural unincorporated Sedgwick County located outside the projected urban growth area, commercial development should be limited to those activities that are agriculturally oriented or provide necessary convenience services to residents in the immediate area, or provide highway-oriented services at interchange areas.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. This recommendation of denial is based upon fact that the intended use is not consistent with Comprehensive Plan policy and strategy listed above. The requested use is not agriculturally oriented and it does not provide necessary convenience services to residents in the immediate area. The use provides support services for the applicant's "Fuel Outlet" business that has no relationship to agricultural operations, site-based resources, and highway users or for the convenience of nearby residents. According to Comprehensive Plan recommendations, this use should be located in an area that is urbanized or where urban services (municipal water with hydrants, close by fire stations, municipal sewer with monitoring of waste disposal, paved roads, etc.) are scheduled to be extended.

However if the Planning Commission feels the request is appropriate, the application should be subject to the following Protective Overlay conditions:

- A. The uses permitted on this site shall be restricted to those permitted by the "RR" Rural Residential zoning district plus "limited manufacturing" uses as defined in the Unified Zoning Code.
- B. The area covered by the "GC" General Commercial zoning shall be limited to area shown on the attached site plan.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood. Surrounding land is zoned "RR" Rural Residential and is used for large lot residential uses or agricultural pursuits. This area is rural in character.
2. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "RR" Rural Residential which restricts the site to low intensity uses. Only two commercial and industrial uses are permitted by right in the "RR" district, those being a hobby kennel and an asphalt plant, limited. The site also has a legal nonconforming right to a gasoline service station. Given the lack of public services and its distance from any other urban uses or urban population density, the subject property is suitably restricted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Granting of "GC" General Commercial zoning will set a precedence for this type of zoning at this rural location. The "GC" district permits a

wide variety of intense commercial and industrial uses that would not be appropriate at this location.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The intended use is not consistent with Comprehensive Plan policy and strategy guidelines as state above. The requested use is not agriculturally oriented and it does not provide necessary convenience services to rural residents in the immediate area. The use provides support services for the applicant's "Fuel Outlet" business that has no relationship to agricultural operations, site-based resources, and highway travel or for the convenience of nearby residents. According to Comprehensive Plan recommendations, this use should be located inside one of the cities within the county.
5. Impact of the proposed development on community facilities: None identified.

MILLER "Commissioners, there are two items here. They are applications for the same piece of property by the same applicant; however, they are different and there is a reason why they are being handled as two separate items as opposed to companion items like you normally see with a zone change and a Conditional Use. The reason for that is that the Conditional Use really has nothing to do with the request for the 'GC' Commercial.

Let me try to clarify that. On 6a, it is the request for the 'GC' General Commercial zoning; and what we have here is out on Highway K-254, just west of 143rd Street at the northwest corner of 143rd and K-254, is an old gas station that has been there for a number of years. It is currently considered to be a legal non-conforming use with respect to gasoline sales. The service station was there, went out of business and the County Zoning Administrator has determined that in his opinion, they still have the rights to open a gasoline sales/service station as a non-conforming use because it is still zoned 'RR' Rural Residential. However, what the applicant's intended use for it is he is the owner and operator of the fuel outlets that you have seen around town where they sell discount gasoline. He uses this location, or intends to use this location for his offices. He also fabricates the awnings and the support structures for the fuel outlet facilities, if you have seen those. There is a canopy and a support structure that hold that canopy over the pump stations.

It is my understanding, and he will be able to explain this in more detail, but they take metal components, weld and fabricate those at this location. In the opinion of the Zoning Administrator, that requires 'GC' General Commercial because that is limited manufacturing. So he is asking for the 'GC' zoning in order to do his manufacturing for the fuel outlet facilities at this location.

To the northwest is the closest residence, it is about 1200 feet. To the east is Leffler Trailer Sales, half a mile to the east, give or take. The Comprehensive Plan depicts this site as being rural and the rural area consists of land outside the 30-year Wichita Urban Service boundary and any of the small city growth areas. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large-lot residential subdivisions. There is also a strategy in the Comprehensive Plan, Strategy 3-B IV, which states that in these portions of rural unincorporated Sedgwick County that are located outside the projected urban growth area, commercial development should be limited to those activities that are agriculturally oriented, or provide necessary convenience services to residents in the immediate area, or that provide highway oriented services at interchange areas.

Because of that, those policies and that strategy, staff is not recommending approval for this particular request for 'GC' General Commercial at this location. We don't feel that introducing 'GC' zoning in Limited Manufacturing in an area that is clearly a rural area at this point in time to be consistent with the plans policies or the strategies listed in support of those policies. However, if the Planning Commission disagrees with staff's recommendation, we are recommending that the 'GC' zoning, if you should decide to approve it, to be approved subject to a Protective Overlay that contains 2 conditions.

1. That the site is restricted to those uses permitted in the 'RR' district as well as Limited Manufacturing only.
2. That the area covered by the 'GC' General Commercial zoning be limited to the area shown on the site plan.

On the last page of the staff report there is a site plan attached that shows the existing office shop and the canopy that is there today that used to be where the gas pumps were when it was a gas station.

I guess I will ask for some guidance at this point, whether you want to take these separately or whether you want to hear the second request and then talk about them separately. It probably makes the most sense to do that, in my mind, to let me go ahead and do the second request."

MICHAELIS "I would agree with that."

MILLER "All right, this next request is the same piece of property, same acreage, etc., however, the reason for this particular request is that the applicant is also wanting to sell propane fuel at this location. As you noticed on that one slide there was a rather large propane tank that is out in front of the facility today. The applicant has a contract currently in place to sell the propane. The reason for the two requests is that if, for some reason, he doesn't get the 'GC' approved, he needs this Conditional Use for ag sales and service in order to continue the propane sales because the County Zoning Administrator has determined that this type of sales activity is more intensive than what would have been permitted by just the gasoline sales that it currently is permitted as a non-conforming use. So he is asking for a Conditional Use to permit Ag sales and service and propane sales in particular. In the definition of agricultural sales and service, propane sales is specifically listed as a permitted use. So we don't have a problem with interpretation as far as the use and what kind of category it should fall under.

He has bulk sales here (indicating on a slide) and then smaller, residential-sized tanks here that would be available for lease or sale to property owners. There are also delivery trucks so that they can deliver the fuel to the residences. To kind of make a long story short, we feel like this is a true agricultural sales use and should be approved, subject to the conditions listed on Page 3, A,B,C and D. The same site plan is attached to this particular request.

To kind of wrap this up, the reason for the two requests was that if the 'GC' zoning is not approved, then he still needs the Conditional Use for ag sales and service if you think that is an appropriate use there as well. If it turns out that he gets the 'GC' approved, he doesn't necessarily need the Conditional Use, but given the situation that he was in, he needed a 'fail-safe' approach to this. With that, I will try and answer any questions."

JOHNSON "Will you go back to the slide where the large tank was that was in front of that canopy? When this service station was put in here, it was in 'Rural Residential' zoning, so it was non-complying?"

MILLER "The service station would have been there probably before zoning was there, so it wasn't zoned anything until..."

JOHNSON "Okay. When that was done, surely there was some kind of a permit or something taken out for that facility, and for the canopy."

MILLER "Do you mean for the building?"

JOHNSON "Right."

MILLER "Well, I don't know."

JOHNSON "I guess what I am leading up to, it looks like to me that the canopy is awfully close to the right-of-way of K-254. And now, there is a propane tank that is even closer. I didn't know if there was any kind of problems where this tank is sitting if we grant that zoning. Then would this have to be platted and there would be setback requirements and the tank would be in that setback, or what?"

MILLER "I don't know. I am guessing it is somewhere around 20-foot off of the property line, based on the site plan. They are showing a 26-foot distance to the edge of the canopy."

KROUT "They do permit canopies to be an exception to the building setback. I think that if this was proposed for zoning that you are also recommending that it be subject to platting."

MILLER "Correct."

JOHNSON "Well, do you see that tank staying there?"

KROUT "Well, it is 'GC' zoning, and a 'GC' zoning permits outside storage and I think that is basically what you have out there. So yes, it would be, technically. They may have to screen it from view of K-254 to comply with the screening requirements for outside storage, I'm not sure. We will have to look at that. But I think that it would be permitted."

MILLER "I have been advised by County Code Enforcement that all of the appropriate fire officials have reviewed this particular tank in this particular location and they have all signed off on it."

MICHAELIS "Are there any further questions of staff? Thank you, Mr. Miller. At this time, could we hear from the applicant, please?"

DAN CLAASSEN "I am the owner of the facility. If I could just regress and answer the question more specifically--we did meet with KDOT on the setback of the tank. In fact, there is a 10-foot setback requirement off of the property line, but KDOT has no setback requirement whatsoever. In fact, as far as they are concerned, it could be right up against the fence.

Let me give you a little history on this facility. This was owned by a gentleman by the name of Coy Burge many, many years ago. He operated a restaurant there; had his corporate offices there, had a convenience store there with outside gas sales. Had a bulk gas storage facility there that he operated bulk deliveries on gasoline, and I imagine diesel-- I don't know that for a fact--at that facility, and then he had an area for storage and for light maintenance.

In fact, that is what I really want to do, in like manner. I don't want to have a restaurant there, but do want to have my corporate offices for Fuel Outlet at that facility, where the customers call in and we address their concerns. There is not a lot of drive in or out traffic associated with that. The former restaurant building is used just internally for light storage for office supplies and the like. The former convenience store area is where we do what we call out light assembly area. The products are brought in, it is an air conditioned area, and we do our electronic testing, etc., there. And then in the former maintenance facility is where the shop area is. For the most part, we bring components into that area and we assemble them. In the way of actually doing fabrication, probably a fraction of 1% of our time is actually spent with a welder touching it to a piece of metal.

Everything you see at a Fuel Outlet, if you are familiar with one of those unattended gas stations, we do. We farm out a lot of it. Like the canopy, for example, we don't do that on-site, we farm that out to a fabricator here in town. But we do assemble the dispensers in the facility.

In regards to the propane sales, I would like to announce to you that we have gotten the stamp of approval from the State Fire Marshall of having the highest quality bulk farm for propane in the State of Kansas. So we do bring a little bit of happiness to the table today.

For the most part, I want to continue the tradition of what has been done at that facility in the past. It is somewhat of an anomaly because it was out there and it was operating before there were zoning restrictions and laws associated with that. We have taken this facility that was out of service for some time--it went out of service because it lost access to K-254 highway for drive in traffic. We don't have a direct relationship with the customer where they drive in and buy a product from us and leave, such as a convenience store would. So the access was not an issue for us. But for the most part, I want to continue the tradition of that facility that was taken out of service and really was left in a dilapidated state of repair. We came in and have cleaned it up and fixed it up and are wanting to operate it."

MICHAELIS "Are there any questions of Mr. Claassen?"

GAROFALO "Mr. Claassen, are you telling us that you already have all of this activity going on there?"

CLAASSEN "Yes. There was a major misunderstanding with this facility. It was represented to me as being a legal non-conforming use activity out there. So, in fact, yes, we did move in and start, in a limited form, some of the activity. Then we found out, through Code Enforcement, that it was not as we believed."

GAROFALO "The propane sales...people don't come in for that?"

CLAASSEN "No. We do bulk delivery to residences. They can bring a bottle in for filling, like a 20-pound barbeque grill and we would be happy to service that, but for the most part it is all bulk delivery."

BARFIELD "What kind of inventory do you envision in terms of your awnings?"

CLAASSEN "You will see very little on the outside, for the most part. All of the components of a fuel outlet are the smaller type. We are a big jigsaw puzzle, if you will. When we go out to the construction site, we put all of the pieces together ahead of schedule in the facility, then we take it out and put these components together. So for the most part, it is all stored inside.

What you would see outside, out of fairness, is there are storage trailers that we take out, like on a construction site where you see the job trailer. We bring that in, we fill it up and then we take it out to the site. But we do a very good job of keeping things neat. I don't know if you have ever driven up to a Fuel Outlet, but it is clean when you go there. We take that same mentality and bring it to our facilities out there. We think that we are a very good neighbor. We have cleaned it up, we have taken out all of the trash--dumpster-load after dumpster-load has been taken to the landfill. I hope that we are a good neighbor."

BARFIELD "But there would be some outside storage there."

CLAASSEN "There would be."

WARREN "As I relate to a Fuel Outlet, of course, the biggest thing you have is that canopy, and you are saying that you don't fabricate there."

CLAASSEN "No, sir."

WARREN "So, when you talk about this dispensary unit, it is a gas pump?"

CLAASSEN "Yep."

WARREN "So it is a little gas pump that you are going to fabricate, assemble and etc."

CLAASSEN "Now, don't belittle it. It is a really important piece of merchandise to me."

(Laughter here)

WARREN "I understand, but it is not like that canopy."

CLAASSEN "Yeah, yeah. That is done on a store that is on South Broadway, by a subcontractor."

WARREN "So most of your work would be in the size of that gas pump?"

CLAASSEN "Yeah, or even smaller. For example, the gas dispensers, by regulation, have a secondary containment box that sits in the concrete under that. We bring that box in, we cut the holes in the side of it, we mount the connectors there and then we dispatch to the side, and then they simply hook the hoses up to that."

OSBORNE-HOWES "I don't know whether I should ask you this or staff, but you have talked to staff, so, if you sell this propane gas to residences, how does this qualify as agricultural sales and service?"

CLAASSEN "It is rural America."

OSBORNE-HOWES "Rural Residential then."

CLAASSEN "Yeah."

GAROFALO "I have one other question. This outside storage, what do you think it would involve? What does it involve, and could you eliminate that by building and putting the stuff inside so you don't have a bunch of junky looking stuff maybe."

CLAASSEN "Don't let me over emphasize what outside storage is. The job trailer that we bring in and fill up. That has to be outside while we are filling it up and then it is dispatched out. But beyond that, I don't have any need for outside storage whatsoever."

GAROFALO "You won't have a bunch of these old pumps that you have to replace or something? Pumps that go bad or whatever."

CLAASSEN "One dispenser costs \$32,374.00. I will not leave it outside."

GAROFALO "Well, I mean if you had to replace them they wouldn't be laying around rusting away?"

CLAASSEN "No, sir. We would disassemble it and remove it. I wish you could have seen a 'before and after' shot of this. Is anybody familiar with this prior to Fuel Outlet? Okay, what was it like before we got there?"

HENTZEN "I knew Cory Burge, and I can tell you it was not the best looking place."

CLAASSEN "You are too kind. However today it is swept, it is neat, it is mowed and it is trimmed, and it will stay that way."

GAROFALO "Do you anticipate an expansion of this activity?"

CLAASSEN "No, I don't. But I would rather not be restricted to that. I want to grow."

GAROFALO "I guess we can understand that."

MARNELL "I have a question for Dale. Dale, when you were talking about limiting the zoning to the portion that has the shop with a canopy already on there, what portion of that lot that was shown on the tract, what portion is that. "

MILLER "The application area indicates that they have contracted for a little over 6 acres, but if you look at the site plan, that is not 6 acres. So what we were suggesting was that if it is approved that it be restricted to the area covered by the site plan. I haven't calculated what that is, but if you look at the dimensions on there, that is not 6 acres. Approximately 2 acres."

BARFIELD "I have a question for Marvin. Will 'GC' allow for the type of outside storage that he is referring to?"

KROUT "Yes, unless he is specifically prohibited in a Protective Overlay."

WARREN "I take it that an approval of this would probably dictate that we have a plat within a year. So at that time, then, we could restrict that 6 acres that we are talking about."

KROUT "This is the time to decide what the dimensions of the zoning district should be."

WARREN "You say dimensions. I don't have any way of the meets and bounds. We could say 6 acres and I am not sure where it would be. But we could determine that in a plat."

KROUT "Yes, the plat will give you a legal description, but I mean based on the site plan."

WARREN "You would say more or less 6 acres then, to be subject to description in plat?"

KROUT "That is the whole property. The tract that is developed and used now is approximately 2 acres, Dale?"

MILLER "About 3-1/4 acres, he says, total. If you look at the site plan and look at the area that is outlined there, that is not 6 acres. So he has indicated that it is about 3-1/4 acres."

WARREN "But you are of the opinion that this is what he is asking for for 'GC' then, on the site plan?"

MILLER "Yes, unless he indicates that he needs more. But based on the way his operation is today, that more than covers what he is doing out there."

WARREN "Has he indicated to you an agreement to a Protective Overlay that would pretty much restrict him to doing what he is doing now?"

MILLER "We can ask him. He is indicating that he is okay with that."

WARREN "His answer is yes. Okay."

MICHAELIS "Are there any further questions of Mr. Miller? Okay. We need to back up here a little bit and go to the audience. Is there anyone in the audience that wishes to speak in favor of this? Is there anyone who wishes to speak in opposition to it? Seeing none, we will bring it back to the Commission."

BARFIELD "I'm sorry. I would like to ask the applicant another question. If this were to be approved, are you in agreement with staff's comments?"

CLAASSEN "Yes."

MICHAELIS "Shall we take these one at a time?"

KROUT "Let's take a motion on each one."

MICHAELIS "If we approve 6a, you don't need 6b."

KROUT "Well, potentially, the County Commission....this could go forward and one might drop out."

MICHAELIS "Okay. We are ready for a motion on Item 6a."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. Surrounding land is zoned "RR" Rural Residential and is used for large lot residential uses or agricultural pursuits. This area is rural in character. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "RR" Rural Residential which restricts the site to low intensity uses. Only two commercial and industrial uses are permitted by right in the "RR" district, those being a hobby kennel and an asphalt plant, limited. The site also has a legal nonconforming right to a gasoline service station. Given the lack of public services and its distance from any other urban uses or urban population density, the subject property is suitably restricted. Extent to which removal of the restrictions will detrimentally affect nearby property: Granting of "GC" General Commercial zoning will set a precedence for this type of zoning at this rural location. The "GC" district permits a wide variety of intense commercial and industrial uses that would not be appropriate at this location. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The intended use is not consistent with Comprehensive Plan policy and strategy guidelines as state above. The requested use is not agriculturally oriented and it does not provide necessary convenience services to rural residents in the immediate area. The use provides support services for the applicant's "Fuel Outlet" business that has no relationship to agricultural operations, site-based resources, and highway travel or for the convenience of nearby residents. According to Comprehensive Plan recommendations, this use should be located inside one of the cities within the county. Impact of the proposed development on community facilities: None identified.) I move that we recommend to the governing body that the request be approved, subject to the following Protective Overlay conditions:

- A. The uses permitted on this site shall be restricted to those permitted by the "RR" Rural Residential zoning district plus "limited manufacturing" uses as defined in the Unified Zoning Code.
- B. The area covered by the "GC" General Commercial zoning shall be limited to area shown on the attached site plan.

BARFIELD moved, **MARNELL** seconded the motion.

MARNELL "Did the motion include only the portions currently used for the operation, something less than 3-1/2 acres as opposed to the whole site."

BARFIELD "Yes."

KROUT "You need to make findings to justify approval of this. The staff comments are findings to justify a vote for denial because it is not in character with the area and not consistent with the Comprehensive Plan. So I think someone needs to turn to the page where the findings of fact are identified and provide the County Commission with your reasoning for approving this."

WARREN "I would like to speak to that. 'GC' is 'GC' based on this book (indicating) and this Code, but 'GC' with a Protective Overlay is not 'GC'. So, that, I think, is justification. We are not approving 'GC' unabated. We are not approving 'GC' to go do what you want to do, based on this building, we are approving 'GC' very restrictively. I think we can do that. When we put that Protective Overlay on it, then we have changed the dimensions and the definition of 'GC' altogether."

MARNELL "I would like to add to that that this is an existing facility and it would be a shame to have that abandoned. On the other hand, if this was a better piece of land, I don't think we would be saying that this was the place to go locate something that would go in 'GC' unless it would be the kind of structure that is already there. It would seem to be a tremendous waste to tear it down."

GAROFALO "It is not clear to me, at this point, if we approve the 'GC', what area we are approving. I think it is supposed to be the area covered by the site plan?"

MILLER "It is the area covered by the site plan."

GAROFALO "Okay, but earlier, it was mentioned that it was 3-1/2 acres, but I thought the applicant said 3/4 of an acre."

MILLER "Three and a quarter acres."

MICHAELIS "I suppose if you wanted to put a specific area on it, you could."

GAROFALO "I just wanted to make sure."

KROUT "It is 3-1/2, plus or minus an acre."

GAROFALO "Okay. So we are talking about the site plan."

MILLER "Yes. Just for clarification. What he indicated was 3-1/4 acres, not 3/4 of an acre. That's 3.25."

KROUT "The dimensions don't indicate if there is anything that size."

PLATT "Do we have a motion on the floor to discuss?"

MICHAELIS "Yes."

PLATT "I am going to vote against the motion. I think to put 'GC' zoning in this location is a very, very bad precedent. I also do not like the concept of granting zoning because we like a particular activity and don't like something else. I think we need to begin with saying 'all right, is this an appropriate place for 'GC' zoning or not. If it is not, then I don't think we should try to start bending the rules to make exceptions. I think to end up doing 'GC' zoning only for the site plan might create a real gerrymandered situation where we have a snip of non 'GC' zoning surrounding this area which is not usable for anything."

Here we are going to be faced with someone coming back in a couple of years wanting to change that zoning, saying 'I can't use this land for anything else'. Then we will end up with the whole six acres, I think, very, very soon. This is just not a place for 'GC' zoning, and I won't support it."

HENTZEN "I am going to vote for the motion. I want to say that the adjacent zoning and land use in the report shows 'RR' Rural Residential on all sides. The fact is that there isn't any residences near that place. Just because, through some resolution of the County when we put in the zoning ordinance some years ago, we classified everything out there Rural Residential if it wasn't already there for something else, so that to say 'this is not the place for that kind of an operation, I think is baloney. It is already there, and it is the right place for this kind of operation. I will vote for it."

WARREN "I am also going to support the motion. But I am going to question what Dr. Platt has said, and that is that he is still referring back and condemning a project predicated on the fact that we are going to give it a 'GC' zoning and we are not. We are going to give it a modified 'GC' zoning. Every zoning district in that book almost has got some way to modify it. That is what we are doing here. So we are not giving this thing much, turning it loose for 'GC' as he has indicated."

MICHAELIS "Is there any other discussion? We have a motion on the floor to approve item 6a and restrict the 'GC' zoning to the site plan."

KROUT "Subject to platting and subject to the conditions in the Protective Overlay."

VOTE ON THE MOTION: The motion carried with 9 votes in favor (Hentzen, Warren, Michaelis, Johnson, Marnell, Garofalo, Osborne-Howes, Barfield and Lopez) and 1 in opposition (Platt).

MICHAELLIS "Now we need a motion on 6b."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood. All land surrounding the site is zoned "RR" Rural Residential and used for agricultural or large lot residential uses. The suitability of the subject property for the uses to which it has been restricted. The site is zoned "RR" Rural Residential, but has nonconforming use rights for a gasoline service station. The applicant could operate the site as a gasoline service station as a nonconforming use. The "RR" district restricts uses to agriculture, other very low intensity non-residential uses and large lot residences. Those uses could also be developed here. However, since the site is already developed for gasoline sales, and the "RR" district limits the opportunity for many other nonresidential uses, this site is difficult to reuse. "Agricultural sales and services" is a use that is permitted in the "RR" district with a Conditional Use, and sale of propane is specifically listed in the agricultural sales and services definition. Extent to which removal of the restrictions will detrimentally affect nearby property: Compared to a gasoline service station, the proposed use will not detrimentally affect nearby properties to a greater degree. Conformance of the requested change to the adopted or recognized Comprehensive Plan: Strategy III.B4 states that in those portions of rural unincorporated Sedgwick County located outside the projected urban growth area, commercial development should be limited to those activities that are agriculturally oriented or provide necessary convenience services to residents in the immediate area, or provide highway-oriented services at interchange areas. Propane fuel is a product used primarily by rural residents. Impact of the proposed development on community facilities: None identified.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. The site shall be developed, maintained and utilized in general conformance with the approved site plan, and shall apply only to the area depicted on the site plan.
- B. The Health Department must approve the on-site sewage system, and all other applicable permits shall be obtained prior to the commencement of operations.
- C. Permitted uses shall be restricted to those permitted by the base zoning district plus agricultural sales and services as defined in the Unified Zoning Code.
- D. Any violation of these conditions shall render this Conditional Use Permit null and void.

MARNELL moved, **JOHNSON** seconded the motion, and it carried unanimously (10-0).

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- 7a.** **ZON2000-00066** - Horst K. Hiller (Owner/Applicant); Lowen Architects, Inc., c/o Ray E. Lowen (Agent) request zone change from "MF-18" Multi-Family Residential to "GO" General Office, described as:

Lot 2, Block 2, Park Meadow Estates, Sedgwick County, Kansas.

- 7b.** **CON2000-00062** - Horst K. Hiller (Owner/Applicant); Lowen Architects, Inc. c/o Ray E. Lowen (Agent) request a conditional use to allow a bank or financial institution on property described as:

Lot 2, Block 2 Meadow Estates Addition. Generally located on the northwest corner of Harry and Todd.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from "MF-18" Multi-Family Residential to "GO" General Office on a 5.44 acre platted tract located at the northwest corner of Harry and Todd. The applicant also requests a Conditional Use to permit a Bank or Financial Institution on a 1.03 acre portion of the property requested for "GO" zoning.

The applicant proposes to develop the subject property with a bank at the northwest corner of Harry and Todd. A daycare center is proposed for the western portion of the subject property. A two-story office building is proposed for the northeast corner of the site, and a one-story office building is proposed for the middle of the site. The subject property is separated from adjacent properties by a drainage ditch to the north and west and by streets to the south and east. A site plan illustrating the proposed development is attached.

The surrounding area is characterized by a mixture of uses with apartments to the north, duplexes to the northeast, single-family residences to the south, and undeveloped property zoned for multi-family residential development to the east and west. The properties north, east, and west of the site are zoned "MF-18" Multi-Family Residential. The properties northeast of the site are zoned "TF-3" Two-Family Residential. The properties south of the site are zoned "SF-6" Single-Family Residential.

CASE HISTORY: A zone change request (SCZ-0270) to "C" Commercial was denied by the MAPC and withdrawn by the applicant on November 16, 1971. The subject property was platted as Lot 2, Block 2 Park Meadow Estates Addition on August 18, 1976. On September 27, 1976, the zoning on the subject property was changed (SCZ-0325) to "AA" One-Family and a Conditional Use (CU-160) was approved for the establishment of a multi-family housing development with a gross density of 7 units per acre. The Official Zoning Map dated April 14, 1977 shows the zoning of the subject property as "R-5" General Residence with the restrictions of CU-160 removed from the property, which appears to have been changed as a result of the property being annexed by the City of Wichita. On October 23, 1990, the Board of Zoning Appeals approved a use exception to permit a child care center in the "R-5" General Residence District subject to construction within one year; however, the use exception was declared null and void for failure to meet the construction deadline. When the Unified Zoning Code was adopted on March 4, 1996, the zoning of the subject property converted to "MF-18" Multi-Family Residential.

ADJACENT ZONING AND LAND USE:

NORTH: "MF-18" Apartments
SOUTH: "SF-6" Single-Family Residences
EAST: "MF-18" Undeveloped
WEST: "MF-18" Undeveloped

PUBLIC SERVICES: The site has access to Harry, a four-lane arterial street, and Todd a two-lane collector street. Harry had 1997 traffic volumes of approximately 9,000 vehicles per day. The 2030 Transportation Plan projects traffic volumes on Harry to increase to approximately 13,000 vehicles per day. The projections in the 2030 Transportation Plan assumed that the subject property would be developed with multi-family residential uses. The proposed office, bank, and day care uses could increase the traffic volume on Harry by as much as 1,300 vehicles per day. While the resulting traffic volume on Harry is still within the range for Level of Service D for a four-lane arterial street, planning staff is concerned about the proposed alignment of access drives in relation Cranbrook (a collector street on the south side of Harry) and the corresponding potential for turning movement conflicts. Public water and sewer service are available to be extended to the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "High-Density Residential" development. The "High-Density Residential" category is intended to support residential densities in excess of 10 unit per acre, such as garden apartments, condominiums, and special residential accommodations for the elderly. With the exception of a higher traffic generation rate, office uses such as those proposed by the applicant have similar impacts on nearby properties as high-density residential uses.

RECOMMENDATION: Planning staff finds that the subject property is appropriate for office development as proposed by the applicant; however, the "GO" General Office zoning district permits higher intensity uses than proposed. Therefore, planning staff is recommending limitations on permitted uses and additional site design requirements to ensure compatibility with surrounding residential uses. In addition, the location of access drives on the proposed site plan could cause potential turning movement conflicts; therefore, planning staff is recommending that the final site plan be approved by the Planning Director and Traffic Engineer. Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED as follows:

- A. Approve the zone change for Lot 2, Block 2 Meadow Estates Addition to "GO" General Office subject to the following provisions of a Protective Overlay:
 1. The following uses shall not be permitted: group residence, limited; group residence, general; correctional placement residence, limited; correctional placement residence, general; and hotel or motel.
 2. Residential development shall be limited to a maximum density of 17.4 dwelling units per acre.
 3. Buildings shall be limited to a maximum height of 45 feet.
 4. Prior to the issuance of a building permit, the applicant shall submit a site plan for approval by the Planning Director and Traffic Engineer and shall develop the site in general conformance with the approved site plan. The applicant shall attempt to design the site with access drives that minimize turning movement conflicts by either aligning the western-most drive with Cranbrook or separating it from Cranbrook by at least 150 feet.
- B. Approve a Conditional Use for a Bank or Financial Institution for the south 225 feet of the east 200 feet of Lot 2, Block 2 Meadow Estates Addition subject to the following conditions:
 1. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
 2. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of uses with apartments to the north, duplexes to the northeast, a single-family residences to the south, and undeveloped property zoned for multi-family residential development to the east and west. The properties north, east, and west of the site are zoned "MF-18" Multi-Family Residential. The properties northeast of the site are zoned "TF-3" Two-Family Residential. The properties south of the site are zoned "SF-6" Single-Family Residential.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "MF-18" Multi-Family Residential, which accommodates moderate-density, multi-family residential development and complementary land uses. The site is suitable for multi-family residential uses; however, the site has not developed in the 24 years that it has been zoned for multi-family residential uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the recommended provisions of a Protective Overlay and the existing regulations of the Unified Zoning Code, Landscape Ordinance, and Sign Code, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the subject property is separated from adjacent properties by a drainage ditch to the north and west and by streets to the south and east, which should further limit detrimental affects on nearby properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "High-Density Residential" development. With the exception of higher traffic generation rates, office uses such as those proposed by the applicant tend to have similar impacts on nearby properties as high-density residential uses.
5. Impact of the proposed development on community facilities: Community facilities are adequate to address the additional traffic generated by the development with the recent widening of Harry to four lanes.

KNEBEL "These two items are presented together in a single staff report. The request is to change the property that is highlighted here on this slide from 'MF-18' Multi-Family Residential to 'GO' General Office. The site is approximately 5-1/2 acres. In addition to that, the applicant is seeking a Conditional Use to permit a bank or financial institution in this particular location here (indicating). A bank or financial institution is a permitted use with a Conditional Use permit in the General Office district. You can see here that the applicant has submitted a site plan that conceptionally describes how the property could be developed. The site plan is a required element for a Conditional Use and shows where the bank would be located and other proposed uses of the site are a day care and office uses in a couple of buildings in those locations, as I indicated.

The surrounding property has a mixture of uses. There are some single-family residences to the south and immediately west of the property is vacant property zoned for multi-family uses. East of the property is the same story, single-family to the south and then vacant property immediately to the east, zoned for multi-family uses. The north of the property is developed with multi-family and duplex uses, and single-family uses to the south that I described previously. This particular piece of property has a pretty lengthy history, there have been several zoning changes, including approval by the Board of Zoning Appeals for a day care on this site previously.

The site shown in the site plan has access to Harry, which is a recently improved arterial street that now has 4 lanes and access to Todd Street, which is a two-lane collector street, serving the residential neighborhood and this property as well. Staff has looked at the projected increase in traffic of 1,300 vehicles per day and feel that the public facilities on Harry Street are sufficient to handle that projected increase. The one exception being that the way that the access points are designed on this leaves very little separation between this access drive to the subject property here and Cranbrook. Cranbrook is a pretty major collector street serving developing single-family areas to the south--and actually has the potential to connect Harry and Pawnee some day and probably will do that--collecting traffic from two quarter sections that will exit out onto Harry and create turning movement conflicts right here in this particular area, which has the potential to cause traffic accidents.

Based on that, the Planning staff has recommended the applications for approval, but has developed some conditions of approval. Condition No. 1 being that the site would be developed in conformance with a site plan that would either provide sufficient separation between these two drives or line these two drives up and somehow redesign the access points and the building locations in this area. In addition to that, the General Office zoning district also permits very high intensity multi-family development up to 75 units per acre, buildings up to 60 feet in height and we feel that that use is too intense for this site and this location, so we are recommending that the residential density and the building height be restricted to that of the 'MF-18' zoning district, being 17.4 units per acre and 45 feet in height for the buildings.

We are also recommending that the Conditional Use be approved subject to the site plan, which would be approved at a later date in concurrence with the Planning Director and the Traffic Engineer. These recommendations are based on the findings on Page 4 and 5 of the staff report, and I am available for questions."

GAROFALO "Mr. Knebel, you aren't talking about eliminating any accesses, are you?"

KNEBEL "No, sir. Just moving it so that it eliminates any turning movement conflicts with Cranbrook Street."

MICHAELIS "Are there any other questions of Mr. Knebel? Thank you, Mr. Knebel. Can we hear from the applicant, please?"

RAY LOWEN "I am with Lowen Architects, Inc., agent for the owner. Basically, the only comments I would have is that I am in concurrence with the restricted uses that staff has mentioned. Also, as far as the driveway location, based on the preliminary plans that now exist, that could probably best be served by moving that driveway further to the west to allow for the appropriate separation as opposed to lining it up, but that would depend upon the finalized site development plans. I have no objection to that. Are there any questions?"

WARREN "Did I hear you say that you object to some of the restrictions places on this?"

LOWEN "No. I do not object to any of the restrictions that staff has put on this."

MICHAELIS "Are there any other questions? Thank you, Mr. Lowen."

KNEBEL "I did fail to mention that you should have a memo from the District Advisory Board. District #2 did consider this on Monday night and recommended it for approval unanimously."

MICHAELIS "All right. Is there anyone in the audience wishing to speak in favor of this item? Is there anyone wishing to speak in opposition? Seeing none, I will bring it back to the Commission."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding area is characterized by a mixture of uses with apartments to the north, duplexes to the northeast, a single-family residences to the south, and undeveloped property zoned for multi-family residential development to the east and west. The properties north, east, and west of the site are zoned "MF-18" Multi-Family Residential. The properties northeast of the site are zoned "TF-3" Two-Family Residential. The properties south of the site are zoned "SF-6" Single-Family Residential. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "MF-18" Multi-Family Residential, which accommodates moderate-density, multi-family residential development and complementary land uses. The site is suitable for multi-family residential uses; however, the site has not developed in the 24 years that it has been zoned for multi-family residential uses. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the recommended provisions of a Protective Overlay and the existing regulations of the Unified Zoning Code, Landscape Ordinance, and Sign Code, which should limit noise, lighting, and other activity from adversely impacting surrounding residential areas. Additionally, the subject property is separated from adjacent properties by a drainage ditch to the north and west and by streets to the south and east, which should further limit detrimental affects on nearby properties. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "High-Density Residential" development. With the exception of higher traffic generation rates, office uses such as those proposed by the applicant tend to have similar impacts on nearby properties as high-density residential uses. Impact of the proposed development on community facilities: Community facilities are adequate to address the additional traffic generated by the development with the recent widening of Harry to four lanes.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. Approve the zone change for Lot 2, Block 2 Meadow Estates Addition to "GO" General Office subject to the following provisions of a Protective Overlay:
1. The following uses shall not be permitted: group residence, limited; group residence, general; correctional placement residence, limited; correctional placement residence, general; and hotel or motel.
 2. Residential development shall be limited to a maximum density of 17.4 dwelling units per acre.
 3. Buildings shall be limited to a maximum height of 45 feet.
 4. Prior to the issuance of a building permit, the applicant shall submit a site plan for approval by the Planning Director and Traffic Engineer and shall develop the site in general conformance with the approved site plan. The applicant shall attempt to design the site with access drives that minimize turning movement conflicts by either aligning the western-most drive with Cranbrook or separating it from Cranbrook by at least 150 feet.

- B. Approve a Conditional Use for a Bank or Financial Institution for the south 225 feet of the east 200 feet of Lot 2, Block 2 Meadow Estates Addition subject to the following conditions:
1. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
 2. Any violation of the conditions of approval shall render the Conditional Use null and void.

JOHNSON moved, **LOPEZ** seconded the motion, and it carried unanimously (10-0).

8a. ZON2000-00056 - McFadden Properties, Inc., c/o John McFadden (owner); Robert W. Kaplan (agent) request zone change to "GC" General Commercial from "LC" Limited Commercial; and

8b. CUP2000-00054 DP-8 University Gardens C.U.P. Amendment #9 - Robert McFadden Properties, Inc., c/o John McFadden (owner); Robert W. Kaplan (agent) request an amendment to CUP to allow indoor storage of construction equipment and vehicles on Parcel 2, on property described as:

Lot 5, University Gardens 2nd Addition to Wichita, Sedgwick County Kansas. Generally located on the northeast corner of 21st Street North and Oliver.

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is proposing to rezone Parcel 2 from "LC" Limited Commercial to "GC" General Commercial and to amend DP-8 University Gardens Community Unit Plan to allow Parcel 2 to be used as a contractor's storage yard.

A contractor's storage yard is part of the use classification of "construction sales and services" in the Unified Zoning Code. Construction sales and service requires "GC" rather than "LC" zoning unless it is primarily a retail rather than wholesale or service use, and it complies with outdoor display and storage requirements of "LC" (Art. III, Sec. III-D.6.bb.). As proposed by the applicant, the use does not meet the criteria of being primarily a retail business. The nature of the proposed use is that of a warehouse/storage facility for a construction firm.

Parcel 2, the application area, is located at the northeast corner of DP-8 University Gardens along Pinecrest. Currently, there is an existing building on the southern portion of Parcel 2, owned by the applicant. Breakthrough Ministries Church (tenant), Harrold E. Jones Attorney's Office (tenant), and Pop's Laundromat occupy the existing building.

The applicant is seeking to expand this building, or build a second building, on the northern portion of the parcel. It would be used for the storage of construction equipment, materials and vehicles. It is our understanding that the metal building would be approximately 80X100 square feet in size, and with an open area of approximately 80 feet between the building and the property line. It would open toward the west (Storage USA). The applicant would build a brick wall 10 feet back from the east property line along Pinecrest, connecting with the existing wall on the north property line of the shopping center, and connecting with the existing buildings. The area between the wall and the property line would be landscaped.

University Gardens was once the location of a Dillons, K-Mart, Revco, and other small tenants in the main building of the shopping center. The Dillons site has been converted to a multi-tenant structure for entrepreneurs and start-up businesses, currently including Oliver's Collectibles, Designers Connection, and Via-Net Transcriptions. The K-Mart building was converted to Storage USA Self-Storage (climate-controlled indoor storage only).

The existing building on Parcel 2, was originally a Kinko's, then changed first to Olan Mills and subsequently to Dollar General. A dentist's office is located near the intersection of 21st and Oliver. Two fast-food restaurants are located near the intersection of 21st and Pinecrest (south of Parcel 2, the application area). These are a Taco Tico and Cora's Home style Cooking (formerly Sonic).

The types of land uses in the surrounding area varies in each direction, with a wide mix of uses; however, all are of relatively lower zoning intensity than that requested by the rezoning. Wichita State University is located to the southwest of 21st and Oliver, with the golf course being the nearest use to the shopping center, and providing a park-like atmosphere to the area. The baseball complex is west of the golf course. A large-lot residential development is located to the northwest.

Immediately north of the shopping center is the Tall Oaks Apartment Complex. The tennis courts and swimming pool are immediately adjacent to the proposed location of the building that would be used for construction vehicles, equipment and supplies. A single-family subdivision, Prairie Hills, is located north of Tall Oaks.

Located to the northeast of Parcel 2 there is a 32-unit senior housing project, Pinecrest Senior Residences, and an eight-unit complex for group housing, Pinecrest Court. This is also the future site for Breakthrough Ministries Church, which is currently a tenant in the existing building on Parcel 2 (the application area). There is also a cell tower to the northeast. Immediately east is another warehouse, self-service storage.

There are a large variety of uses to the south and southeast also, including Unity Church and River Community Church on the southeast corner of 21st and Oliver, some offices and small apartment units. Three other uses merit mentioning. These are a convalescent care facility (Integrated Health Systems), the Cerebral Palsy Research Foundation of Kansas, and the Timbers, which offers housing for handicapped persons and has a large number of residents who are confined to wheelchairs. These residents utilize the sidewalks along 21st to travel to shopping areas for their shopping needs.

CASE HISTORY: DP-8 University Gardens is one of the oldest C.U.P.s in Wichita, dating to July 6, 1965. Most recently, Amendment #8 approved by MAPC on July 30, 1998, allowed the K-Mart facility to be converted to an indoor storage facility, with the underlying zoning remaining "LC" Limited Commercial. Amendment #7, approved March 4, 1986, by the Wichita City Council removed the fast-food prohibition from Parcel 10, to the southwest of the Sonic and Taco Tico sites.

ADJACENT ZONING AND LAND USE:

NORTH: "B"	Tall Oaks Apartments, single-family
EAST: "LC", "MF-29"	Self-storage, cell tower, vacant (future church), Pinecrest Senior Residences, Pinecrest Court
SOUTH: "SF-6", "LC", "GO"	Churches, convalescent care facility, Cerebral Palsy Research Foundation of Kansas, group home (the Timbers), small commercial uses
WEST: "U", "SF-6"	Golf course, single-family residences

PUBLIC SERVICES: Transportation access is via 21st Street North, a five-lane arterial street. In 1997, average daily trips were 21,353. Traffic is projected to increase modestly to 26,302 daily trips in 2030. Other municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan shows the site as "commercial", and would be considered a neighborhood center, typically anchored by a supermarket with a variety of tenants.

The area is just beyond the boundary (southwest corner of 21st Street North and Oliver) of the neighborhood plan, "Northeast: Rediscovering Community" (November 1995). Recommended strategies for commerce and economic development of the Northeast Plan is to "retain or replace existing full service grocery and general retail goods stores within or close to the study area (CE-2), 'establish a program of 'challenge grants' and other financial incentives to attract new investors to the area (CE-3), and assist community-based development ventures, cooperatives and other similar organizations which provide local community benefits, as resources permit (CE-4). In conformance with these strategies, the space previously occupied by Dillons was converted to University Plaza in December 2000. It is oriented to start-up businesses and spearheaded by Air Capital Community Development Co., a subsidiary of the Kansas Southwest Jurisdiction of the Church of God in Christ. It is the result of a public/private partnership to accomplish the strategy of a mix of retail uses available to the neighborhood.

Strategy III.B.5 of Land Use-Commercial/Office goals/objectives in the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan states "confine highway-oriented uses, outdoor sales and non-retail (emphasis added) commercial uses to highway corridors and established urban areas containing similar concentrations of uses. Similarly, the Commercial Locational Guideline #6 states "commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail (emphasis added) uses should be guided to other appropriate areas such as: the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

The proposed "GC" General Commercial zoning and the proposed use of this property as a non-retail trade contractor's storage facility does not conform with any of the policies and strategies listed herein.

RECOMMENDATION: After the center had suffered a period of serious decline, marked by the loss of Dillons, K-Mart, Revco, Sonic, Kinko's and other tenants, an aggressive and determined area by the church-based venture that has been supported by an active neighborhood association, Chisholm Creek Neighborhood Association, has resulted in a turnaround. The shopping center has been the subject of a major effort to redevelop it with sound mix of tenants that provide a variety of retail goods and services to the surrounding neighborhood. There are new tenants in University Plaza, and Storage USA is offering a good-quality mini-storage option to the general public. The efforts are resulting in an achievement of the strategies of the neighborhood plan.

Along the 21st Street corridor, there is virtually no "GC" General Commercial zoning within two miles of the proposed application area. The nearest patch of "GC" zoning is 1 and ½ mile to the west at Piatt (the old Heartspring site). There is no other "GC" zoning from I-35 to Rock Road. Clearly, the addition of a "GC" tract to allow this non-retail type of commercial use is out-of-character with the 21st Street corridor and contrary to the Comprehensive Plan guidelines that these uses should be guided to areas of similar use.

There have been neighborhood concerns expressed about the potential conflict of the use with the nearby residential areas. Residents of Prairie Hills and Beacon Hill travel on Pinecrest as a point of access to these subdivisions. The proposed location of the building is adjacent to the tennis courts and swimming pool for Tall Oaks. Any potential noise or other nuisance activities generated by the use would conflict with the enjoyment of this established recreation facility.

Finally, the presence of several unique residential facilities for specialized needs, including the Timbers, Pinecrest Senior Residences, Pinecrest Court (mentally ill residents) makes this a neighborhood that has accommodated a mix of housing types. It behooves the public to protect this mix by ensuring the type of commercial uses nearby encourages the continued operation of these residential facilities.

Based on these factors, the lack of conformance with the policies of 1999 Update to the Wichita-Sedgwick County Comprehensive Plan, and the information available prior to the public hearing, Staff recommends the application be Denied.

However, should MAPC decide to recommend approval Staff recommends the application be approved with the following conditions:

4. Parcel 2 shall be limited to the indoor storage of construction equipment, vehicles and materials. There shall be no outdoor storage of construction equipment, vehicles or materials of any kind permitted.
5. The building shall be located a minimum of 80 feet from the north property line. All overhead doors of the building shall be located on the west façade of the building.
6. A screening wall of brick materials that is six to eight feet in height shall be constructed to connect the existing termination of the screening wall on the north property line, extending 10 feet to the west of the east property line, and connecting to the front south street wall line of the building.
7. A landscaped street yard, with at least 1/3 of the required shade yard trees being evergreen, shall be established and maintained in the area between the screening wall and the east property line.
8. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
9. The transfer of title of all or any portion of the land included within the Planned Unit Development does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon the present owners, their successors and assigns, unless amended.
10. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

7. The zoning, uses and character of the neighborhood: The surrounding area is an unusually diverse mix of residential, commercial, institutional and park uses, however, there is no "GC" zoning or similar contractor's storage types of use in the vicinity or nearby.
8. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as approved by the existing CUP, and the recent successes of adjacent parcels in DP-8, including the establishment of University Plaza and USA Storage, demonstrate this is a feasible use.
9. Extent to which removal of the restrictions will detrimentally affect nearby property: The location of the contractor's storage in close proximity to the nearby residential areas has negative potential impact. Also, the shift to non-retail commercial uses could discourage addition of other retail uses in the center.
10. Length of time the property has remained vacant as zoned: The property has been occupied by the requested use during the past few, although it was not in conformance with the Unified Zoning Code. A number of violations have been noted by the neighborhood about the use.
11. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The proposed use is not in conformance with the goals/objectives and strategies of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan and it is in conflict with the Northeast plan to reestablish general retail uses in the neighborhood along the 21st Street corridor.
12. Impact of the proposed development on community facilities: The site will have a limited impact of increased traffic.
13. Opposition or support of neighborhood residents: After meeting with applicant, the members of the Chisholm Creek Neighborhood Association voted unanimously to oppose this request.

GOLTRY "This is a request for an amendment to DP-8, one of our oldest Community Unit Plans in the City. It is University Gardens, located at the corner of 21st and Oliver. It is also a request to rezone this property from 'LC' to 'GC'. The request for rezoning Parcel 2 is because the applicant would like to construct a new building. As I say in the staff report, it is shown on the CUP as an 80 x 100 square foot building, but apparently it is a 70 x 100 square foot building. I am not sure whether it is attached or detached from the existing structure on the property. But they want to construct this building for the purpose of a 'GC' use, which is contractor's storage to store their construction equipment, vehicles and

perhaps materials, although they have said in the past at the District Advisory Board that they did not intend to store materials there.

The location of the parcel, if you will look at the aerial map, you will see that this is the whole DP-8 area that actually includes even the Tall Oaks apartment complex to the north; but it is the one on the east end along Pinecrest, a local street. University Gardens is a shopping center that has had a lot of change over its history. It used to be a Dillons, a Revco, and a K-Mart. It has transitioned and most recently it has had a lot of infusion of new uses that have been revitalizing this shopping center. Primarily, we have a public/private partnership that has been working to establish a set of retail uses at the old Dillons site. Also, Storage USA was located in the old K-Mart building.

I think this is a very interesting area because it has a very diverse mix of residential and non-residential uses and more particularly has a very diverse mix of residential-type uses. There is the University's golf course, an area of suburban-type housing built in the 40s or 50s; there are the Tall Oaks apartment complex immediately north of the center, a residual strip of 'SF-6' single-family zoning along Oliver to try to protect this as a corridor for nice residential use. To the north are more residential areas--Beacon Hills and Prairie Hills single-family subdivisions. There is a small senior housing project, a small project for the mentally ill, and a church that is currently being tenanted in a small building but is moving to a site in this location (indicating a site across Pinecrest and northeast of subject tract). We have a cell tower, and some more storage buildings. All of this on 'LC' or lower zoning, then crossing the street, again we have a lot of diversity. We have two churches, Unity and the Riverview Church along the corner area, we have the Cerebral Palsy Foundation of Kansas, which is apparently a statewide facility, as well as The Timbers, which is a location for handicapped people. If you have ever driven or walked along in this area, you will notice that there is quite a few people who do use wheelchairs that travel along 21st Street to do their shopping needs. That is something that may be important to remember from this center. This center used to be the primary shopping destination for the people who lived in the The Timbers.

The zoning to the north is 'B', further to the north it is 'SF-6'; to the east, it is 'LC' and 'MF-20', to the south it is 'SF-6', 'LC' and 'GO'; and to the west it is 'U' for University and 'SF-6'.

At this point, I want to talk about conformance with plans and policies. As you can see from the staff recommendation that you have probably already read, staff is recommending denial of this application and this denial is predicated on the points that are contained within the "Conformance with Plans and Policies" section of the report. There are basically 3 things to point out.

No. 1--and I have already touched on this--this is an area that is designed to be a neighborhood retail center, not a construction sales or 'GC' type retail location. There isn't any other 'GC' zoning in the vicinity of this use.

No. 2, it is just kitty-cornered from the boundary of the 21st Street corridor, which is part of northeast Wichita's Rediscovering Community Plan. I went more into detail in the staff report and I will just reference the fact that that Community Plan had specific strategies designed to try to revitalize neighborhood retail shopping centers for retail services to the neighbors in the vicinity. They even mentioned these types of centers as where we should be channeling our public/private partnership efforts.

No. 3, the strategies and the 'Land Use and Commercial Office Goal' section of the Comprehensive Plan makes it clear that we need to be careful where we locate our non-retail commercial activities because they do have a debilitating effect on the future location of retail commercial activities. Therefore, it is recommended that they go along the CBD fringe segments of Kellogg, other established areas of similar development. This segment of 21st doesn't meet any of those criteria as an appropriate location for non-retail types of commercial uses.

So in summary, our recommendation is that it is in conflict with the revitalization goals for the northeast neighborhood. It is also in conflict with the goals of the Neighborhood Associations in the area, which have worked very hard and diligently, to try to re-establish this as a vital retail area. It is in an area that does not have any similar 'GC' zoning for quite a while. The nearest I could tell on the map was an old pocket of it along the old Heart Springs or Institute of Logopedics. Otherwise, all of the property from I-135 clear to Rock Road, there is no other 'GC' zoning. It would be a spot. There is also the potential conflict with this construction sales type of use with the immediately adjacent use on Tall Oaks apartment complex, and that is that it is a swimming pool and the tennis courts, and if you can think about moving the trucks in and out, and moving the construction equipment in and out, that doesn't seem conducive to something that is just separated by one wall.

The fourth thing I would like to highlight is that there is the fragility of this particular area. This is a fragile part where we have worked hard--the neighbors have worked hard to try to revitalize it, and the establishment of non-retail in the area would be contrary to trying to keep it increasing in terms of its retail component to support the surrounding residential neighborhood.

This has been an ongoing use where what has been an ongoing problem is that the applicant has owned the property and he has used it for storage of some of his materials and old vehicles in the past. There is some dirt stored on site, just outdoor storage.

As I said, staff has recommended denial. At Monday night's DAB meeting, the case was discussed by the DAB and the vote was 9-2 to support the staff recommendation of denial. I will stand for questions."

MICHAELIS "Was that 9-2? The memo says 7-2."

GOLTRY "It does say 7-2? There were 11 members present and I know that there were 2 who opposed and the remaining members supported it. I could stand corrected since I am not the official word on that, but I counted 11 folks there. (To a person in the audience) You were a member of the DAB, weren't you?"

Man from the audience "I am an alternate member. Alternate members' votes are not recorded."

GOLTRY "That is probably the answer then. So I would say that I do stand corrected. The vote would have been 7-2."

WARREN "So that I am absolutely oriented here now, on this site plan, Parcel 11 is, in fact, the old K-Mart store, isn't it? Are you looking at what I am looking at?"

GOLTRY "Yes. Parcel 11 is the old K-Mart store."

MICHAELIS "Are there any further questions of Ms. Goltry? If not, can we hear from the applicant?"

BOB KAPLAN "Mr. Chair, Commissioners, I am the attorney for Mr. McFadden of McFadden Properties, Inc. Donna is a good advocate and she did a good job, but let me put this in perspective, if I may. It is really a misnomer to call this a contractor's storage yard, and it is somewhat of a misnomer when you talk about General Commercial zoning. The reason that it is General Commercial is the fact that we have to store vehicles, although we are storing them inside. It is a contractors' storage yard because that is what the Code says under the 'GC' zoning. I really like the way, at the DAB, and I can't quote him exactly, but when Councilman Rogers, who chaired the DAB at the Atwater Center the other night, there was some confusion about it. He said 'what the man wants is a garage to park his vehicles in'. Those weren't his exact words, but that would paraphrase the explanation, and that is exactly what we want. We want a garage to park our vehicles in. We've got what apparently is going to become, if we don't get this developed, is an ongoing dispute with the city on the interpretation on the ordinance on what he can park outside and what he can't.

He has basically pick-ups. In addition to the pick-ups in his construction business, he has some light trailers that on occasion haul a light piece of equipment. Maybe a Bobcat, maybe a smaller front-end loader. Rubber tired equipment. The city doesn't want those vehicles left outside at night. When we bring them back from the site, we leave them outside. The city says no, he can't do that. I don't agree. I told the city that we would come in and attempt to put up a facility where we could store them inside. That is my commitment to OCI. The neighbors don't want them outside either. Nobody wants them parked outside, but nobody wants us to build a facility to allow us to put them inside. It is kind of like my trash case. Everybody will let me pick it up, but nobody will let me put it down anywhere. That is kind of the situation I have.

On the aerial, here is the site. I frankly don't know how I got to 1,000 foot. This is .2 of a mile up to Looman Street. These houses face to the north and there is a board fence clear across here, but here is our site. Next door is USA Storage. (Indicating) Over here is the U-Store facility; this is the apartment complex. I don't know if these folks are here to speak to this. When we contacted them and offered a meeting, they didn't want to meet. They said to keep them advised, but it was kind of mox snits as far as they were concerned. This is the particular site (indicating). This is the existing building. I don't have to have a new building. What I could do, what I could do, and I am glad to amend and do it, if you find it more pleasing, I can extend this building by about 50 feet and just do the same masonry block that it is constructed out of and put a 50 foot extension on it and forget the new building that I am showing over here. We had talked about a new building, we had talked about screening along Pinecrest, but I can take that area right there (indicating) and just extend the existing building 50 feet and have my facility.

But this side is sandwiched in between two large commercial facilities. It is a good .2 of a mile away from that single-family residential. When you get to the slides I took, you will have a good view from the site. We don't have to worry, Commissioners, about General Commercial zoning because we are controlled by the Community Unit Plan, and the only addition I ask to Parcel 2 of the CUP, I ask one additional provision, and that is let us store inside our construction pick ups and construction vehicles. That is what is going to control, regardless of the zoning. So we are not setting a 'GC' precedent. Donna made the point that she wants to retain retail. That site has no retail flavor at all. You can't use that for retail. It is absolutely useless as a retail site. It is not even a good office site."

Mr. Kaplan showed slides of the area here and made specific points. "What you see here are storage units across Pinecrest. They are outdoor storage units with even some outdoor storage with that truck. Those are just overhead storage units, part of the U-Store facility, which runs from there all the way down to 21st Street. This is looking to the west from the site. Incidentally, Mr. McFadden says that all of that debris on that site is with some help from the neighborhood to accumulate that. He denies that that is all his. To the west is the USA Storage, the old K-Mart store. I think that buff or brown brick wall there was probably the garden center. I don't know if there is anything stored in there or not, but that is another large commercial storage facility. To the north we are, as Donna said, in proximity to the tennis court. That is a masonry wall that runs the whole length of the south side of the Tall Oaks Apartments. I don't think they have any heartburn over this. If they are here, then that is something different than I understood. Here you can see how far down the street the driveway is to the residential area. It is a good .2 of a mile. Our property is way down from 21st Street. I am really surprised that we are in the ownership list of 1,000 feet.

On the staff comments, the zoning use and character of the neighborhood is absolutely compatible, sandwiched in between two very large commercial storage facilities. What is incompatible about a private building to store private vehicles that belong to one entrepreneur that is used for his business only? The suitability for uses to which it has been

restricted—it is not retail. It has no retail potential at all. The extent to which the removal of the restrictions will effect nearby property, I suggest to you that that site is not going to adversely effect those homes up there. I just do not see how that can be.

The length of time it has been vacant—this is a CUP of about 65. It has been vacant about 35 years and it will be vacant another 35 if we are not allowed to do something feasible with it. We are, after all, entitled to the highest and best and most economic use of the property.

Conformance to plans and policies—plans and policies are just that. If we are rigidly adhering to comprehensive plans and we are rigidly adhering to policies, then the reason we have planners and the reason we have a Planning Commission and the reason we hear these cases on a case-by-case basis is to make individual judgments and individual calls on what is appropriate and what is not. So compliance or not compliance with the plan or policy is not the end of the dispute at all. I don't see that we set any precedent. What I am willing to do, and I will do it because this thing has been deferred several times, partly at my request, partly because of some long agendas and at the Planning Departments request—I would be willing to come in with a 'GC' zoning just for about 70 feet of that existing to the north of the existing building, and we will just add on to the building, 70 feet by the width of the building, and we will use that for our garage, and we will have the doors on the west side.

(Indicating) This is what we were going to do. We were going to screen it along Pinecrest with an 8-foot brick wall, not a masonry wall, a brick wall, and then build a building. This accesses west over toward the facility, but we can just simply extend the existing building 50 or 70 feet to the north and file an amended application to do that and go that route with it and only ask for that small piece of 'GC' zoning. That is all we need, all we want."

MICHAELIS "Mr. Kaplan, your time is up, do you want a couple more minutes?"

KAPLAN "I would appreciate it."

MOTION: That the speaker's time be extended 2 minutes.

HENTZEN moved, **WARREN** seconded the motion, and it carried unanimously.

KAPLAN "I just want to quickly sum this up, and I thank you for the additional time. When you look at this, and you look at the staff report, and if I were a member of this Planning Commission, I would probably say 'Gee whiz, General Commercial zoning, a contractor's storage yard, and on the face of it, it doesn't look right. But the contractor's storage yard is simply an opportunity for Mr. McFadden to do what the city has asked him to do, get his pick up trucks, and when he has a trailer or a Bobcat or a front-end loader, get them off of the parking lot and get them under a roof. That is what the neighborhood wants him to do.

Because I have had these conversations with OCI and they think he is in violation, and I don't think he is, we said we would put up a new building, we will extend the existing building, we will resolve his problem by putting them indoors. I think we are enhancing the area. That rubble pile that you see will get cleaned up; I think it is an improvement to the area, not a detriment. You are not introducing General Commercial to the area. That's silly. Because you are governed by the Community Unit plan and only by the inside storage. It is an appropriate use, Commissioners, it really is. I would ask that you recommend it favorably. I will answer any questions?"

WARREN "Mr. Kaplan, I am a little confused here by the options you are saying you have or would like to have. You are not thinking about tearing this building down that is on there, under any conditions, are you?"

KAPLAN "No. Commissioner Warren, this is the existing shopping center building right here (indicating). This is this little pocket of ground between the north of the existing building, behind it, if you will, on 21st Street, and this is the masonry wall which separates the Tall Oaks apartments from this site. What we can do—we can forget this building—we don't have to build a new building, we can take this existing building which is cinder block or Haydied or concrete block, I don't know—it is a masonry block, and we can extend it to the north and just add on to the north wall. Build 3 walls, put a roof on it, put doors on the west and I can get by fine with that."

WARREN "Well, the site plan I have only indicates that, and that is the reason I am asking. I don't see, on any kind of a purposed site plan, a new building."

KROUT "The drawing on the CUP shows an expansion of the building, but there is another site plan that was passed out at the neighborhood association meeting that shows a detached building."

WARREN "We don't have that."

KAPLAN "We talked about a detached building. Here's what we can do. We can do this right here. We can put on that 70 x 110 and attach it right to the north wall of the existing building, open it to the west with the overhead door to the west and we will have a place to put our vehicles inside. That is all in the world we want. I didn't really intend to create such a brew-ha-ha out there."

WARREN "If you were to do that, the only thing you would be asking for 'GC' or modified 'GC' along with the CUP would be that area north of the existing building. You wouldn't be changing the zoning of the existing building?"

KAPLAN "Correct. Seventy foot north and south by 100 foot east and west dimension 'GC' to permit the inside storage. Yes, sir, that is exactly correct. I can do that. I don't need to build a new building. I thought that was what everybody wanted."

BARFIELD "Could you go back on the slides and show me where you propose to build this building?"

KAPLAN (Indicating) "This site right here, you are looking at the storage facility to the west, and you are looking west of here. Here you are looking to the north. It is that site right in there. It is behind the building on the right. It is bordered on the north by that masonry fence. The east side of this site, you can tell from the aerial is Pinecrest that we were willing to screen from, and the west side is the present storage facility, the old K-Mart building. Of course, I showed you the east view. That is looking across Pinecrest to the east and it would be that site right there in the foreground, across from that storage facility with the cell towers and all of that stuff."

KROUT "We might be able to get you a slide that shows the existing building."

KAPLAN "Donna will have to do that. I can't do the PowerPoint."

GOLTRY (Indicating) "That is a picture of the existing building. It is primarily a brick building."

BARFIELD "What I am attempting to do is to find out the exact area where he intends to build this."

KROUT "Can you get the CUP drawing up there?"

GOLTRY "Yes. It is the area right behind here. Let me show you a picture of it. This would be the area that he is discussing (Indicating).

KAPLAN "Mine is really a little better than this. It is this area right in here ; (indicating); this is the apartment tennis court; this is the area; this is a storage facility; this is the one on the east side of Pinecrest, and this is the existing shopping center building. We are talking about this area right here. This could be an extension to the north of this building. That would be acceptable."

BARFIELD "Okay. So the extension that you are talking about to the north and the site where you are proposing to build the new building, those are not the same, right?"

KAPLAN "Yeah, they are. Here is the north wall; here is basically the north wall of the existing building in this area. We want to come 70 feet to the north. I actually think my drawing is better than that. Here is the existing building—I want to come into right here. This is the CUP. This is what we anticipated doing. This wall is along Pinecrest on the east. We talked about orienting this building, the length of it, so the doors would face to the west of the storage facility in this configuration. This is the USA storage over here. But there seemed to be so much opposition to putting a new building up there that I told Mr. McFadden since all you want is room to store your vehicles, or as Commissioner Rogers so aptly put it 'all you want is a garage to park your stuff in', let's just expand the existing building. We'll match it-- if it is brick, we'll brick it. So if I am not making it clear, I apologize. I am not sure how to describe it any better, given the tools we have at hand."

GAROFALO "Currently he is parking his vehicles in the area there?"

KAPLAN "Frank, he is not. What I did is I told John to just leave his stuff--John is a general contractor, he does a lot of work for the city and the state—I told him to just leave his stuff on his construction site, don't bring it back at night. It is causing a lot of difficulties with OCI. They don't think he can park the vehicles out there over night. I disagree. I think the ordinance permits overnight parking, but I said 'look, I will tell him to keep his stuff away from the site and I will file an appropriate amendment to allow us to construct a building to store them under roof on site. That is what we have done. So, no, currently he is not, although there was a vehicle shown in one of the pictures, a white van of some kind. Currently he is not, but he can't leave them on construction sites, they get vandalized. It doesn't work. So basically he is going to get permission to store on site, or I guess he is going to have to relocate. I don't know what his choice is going to be."

GAROFALO "Is he using the existing building for anything?"

KAPLAN "Yes, his office is in the front of the building. His contractor's office is in the front of the building. Contractor's storage will go into Limited Commercial, but under the Limited Commercial use for contractor's storage, you've got to come in and suggest it is primarily retail. I couldn't do that. I would have been bootleggin if I tried to sell that because it is not primarily retail. He is a general contractor of houses and buildings and other things. So that took it all the way to the 'GC' and that is why we are talking about 'GC'. But I don't need that whole parcel 'GC'; I need a little tiny piece of it."

HENTZEN "You keep saying 'we can build on'. My question is do you have different zoning to attach to the old building? What is it 'LC' now?"

KAPLAN "It is 'LC' now, Commissioner Hentzen, but my opinion would be, and I think Marvin would confirm this, that if we are going to put construction vehicles under roof, it probably has to be a 'GC' district. It seems a far reach, but

probably it has to be a 'GC'. The only reason I talked about it is that it is a contractor's storage yard, and that conjures up an image that is not applicable here at all."

HENTZEN "What if you just needed inside parking for whatever, whoever?"

KAPLAN "Automobile parking? I think I would be all right in the 'LC'. Its just that it happens to be contractor's equipment, even though it is predominately pick up trucks."

HENTZEN "It just seems like we are nit-pickin' here because a 'GC' description, under our Zoning Code says what it can do and what it can't do, but one explanation doesn't fit everything in this county, in this city."

KAPLAN "I agree. I think we are over reacting to this request."

HENTZEN "I don't like the idea of putting 'GC' in there when there isn't any in there now, or either way."

KAPLAN "Well, but remember, Bud, when you say that, remember that we are governed by the Community Unit Plan, and the Community Unit Plan allows only the use—and I didn't request General Commercial uses except for the right to store inside, rubber tired vehicles. That is going to govern the use of that, regardless of the zoning. That is why I take exception to the idea that I am creating some precedent of 'GC' in the area. I don't believe that I am."

BARFIELD "I am going to address this to Marvin. Does the 'LC' go all the way to the wall of those apartments?"

KROUT "Yes."

MICHAELIS "Are there any further questions of Mr. Kaplan? Thank you, Mr. Kaplan. All right. Is there anyone in the audience who wishes to speak in favor of this application? Is there anyone wishing to speak in opposition? You want to speak in favor, sir? Okay. Would you please come forward?"

THOMAS JOHNSON "What do I have, 5 minutes? Okay. To the Commission and those who are in charge of this proceeding. I preach for the Madison Church of Christ. I live at 2302 Gentry Drive. I want to briefly, if you will allow me to, tell you something about John McFadden. He is a very kind man. You probably don't know this, but John is a contractor. He is not a fly-by-night man. Ninety-eight per cent of his work is for the City of Wichita. He is the construction of city streets and sidewalk, and city houses. He has to be inspected on everything that he does.

John owns this building. John is a very kind man. I listened the other night when I went to the meeting at the Atwater Center. I listened to the things that were brought up. I said to them 'well, it appears that they wanted a certain thing'. I saw all of the pictures that were taken of the debris and all of this kind of thing that he had that was on the outside. The trucks can't be parked there. I mentioned to him, I said 'is that really the concern?' You talk about putting up an 8 foot wall, you talk about building a building to put all of the trucks in; if this happens, you won't have a chance to come by and take a picture of all of that stuff and people won't be able to come in there because it will be controlled. I don't understand.

When you think about the fact that this is a time when people have to pay money for everything, you know, before he could come and ask 'is this all right?', he has to spend money to get an architect, go to Planning and get their approval, and the city is telling him what he can do. He is going to spend, right now, even an old poor preacher knows that, he is going to spend \$200,000 or more. That is a lot of money. But he is not even crying about that. He even mentioned the fact, at the meeting the other night, that he was willing to do the screening wall in brick and whatever other landscaping they want. I don't know what else in the world the man can do. If you want to help the neighborhood, you have a man who is willing...he is not crying, saying that that is too much money. I don't know what you want. If you are going to get a chance to get something...

When you look around you at all of the facilities. We're a neighborhood, we have asked people to do things. You don't find no business in Wichita that has an 8 foot wall around it and you can't be able to see in and all of that kind of thing, and he is saying that he is going to put his trucks in. You won't have a chance to go over there and take a picture of all of that stuff that you have seen over there. I don't know why you wouldn't approve it. Amen?"

MICHAELIS "Mr. Johnson, are you sure you don't want to speak for another 5 minutes? That was kind of entertaining. Are there any questions for Mr. Johnson?"

JOHNSON "Now, I don't even have any questions. But you know, here is the thing that gets me. I do this all over the country. I go to meetings with people. I don't like to see people waste time on unnecessary things when there are so many important things that need to be taken care of. You have got here a man that is ready to spend the money to do whatever. He owns the building, so you aren't going to be able to run him off on his building. It belongs to him. So, I think that what I am really trying to say is that I want you to approve this thing and let it get out of the way and go to something else."

MICHAELIS "So you are in favor of it. Okay. Is there anyone else here who wishes to speak in favor?"

DON PORTER "I live at 1030 North Market in Wichita. I have known Mr. McFadden for quite some time. Any time that he had a plan of action that he was planning to put together, he normally fulfilled it up to their agreement or beyond. He has

done several jobs for the City of Wichita. I went to Fort Riley with him and worked up there with him. If he says that he is going to, to your specifications, build a building and put it back there, you ought to allow him to do that. The primary reason is because he has a target zone for contractors. He has a target zone, and if you want to bid on different projects in the community, you have to be in a certain target area. So therefore, this is his target area for him to be able to be able to bid on these here particular jobs. He needs to build there.

Another thing is that I would have been opposed to this project had I not seen what the 21st Street project did. They allowed a storage bin in the K-Mart area and I heard the lady say that that was retail. I haven't gone there to buy anything yet at the storage bin. So I am just saying that we have to think about what we are saying and try to act on what we are going to do and hopefully you will allow him to put it up there. That is all I have to say."

MICHAELIS "Are there any questions of Mr. Porter? Thank you sir. Are you speaking in favor?"

B. D. MILES "My address is Box 3142, Wichita, Kansas. I am the President of Mac Construction, Inc. I talked to Mr. McFadden and he was telling me about the problem he has with parking his vehicles there. I asked him would they let him put a building there and he said he was going to try to do that. It seems to me that if he is given the opportunity to put this building there, it would eliminate the problem of them seeing the construction equipment as an eyesore.

On your agenda, on Page 5, it says 'a proposed location of the building is adjacent to the tennis courts and the swimming pool of Tall Oaks'. Where the swimming pool was, Tall Oaks has built their storage building there for the shop area and filled in the swimming pool because this building is sitting where the swimming pool sat at one time. I don't understand how, if they can have their storage building there for their shop equipment and stuff, which they use to maintain the complex, if he is just going to park the vehicles there and use it basically, as Mr. Kaplan said, as a garage, how it would affect or be a nuisance to the activity of the complex. Thank you."

BARFIELD "Do you know the zoning for the apartment complex?"

MILES "No, I don't."

MICHAELIS "Thank you, sir. Is there anyone else to speak in favor of this item?"

HARLEY BRUNER "Good afternoon Commissioners, ladies and gentlemen. I live over on Gentry. I have known John McFadden for several years. I used to be in business here in Wichita. An auto parts business. I have some concerns as to why I am in favor of this. I was just reading the concerns of the opposition. I see six 'mights'. Business 'might not come in that area'—they 'might not' be attracted to that area any more. The fact is that businesses have left that area. This business that Mr. McFadden is running here, at present, right now, the way it is, it is really an eyesore. The neighbors are all upset. They've got their investment; they've spent a lot of money for their houses. So that is understandable. When you are in business, as Mr. McFadden is, you need to represent your business. Right now, he cannot represent his business because the turmoil that that particular location is in. He needs help. Wichita needs help. The district needs help.

The approach that he has taken is to eliminate the negative look that the community has out there. I looked at a slide that the lady showed. We saw a lot of weeds and some trash. But whenever you let stuff like that be allowed, people dump on you. If you look at the old K-Mart building, they put a retaining wall there. That is in harmony with what is out front at University Plaza at 21st and Market. The visual. The northeast end of this same complex here, and he is a family member in this complex. He would be adding to the beauty of the community. He wants to clean it up, yeah, after 5 years he is wanting to clean it up, because he has been bogged down with paying bills and other things, but he wants to grow. We need to help him grow.

I understand why people have a problem with his growth, but as a businessperson, he should take his business first. The vision that people look at his business when they pass by. If they see the present condition, they are going to think negative, but if they see a business that is just as beautiful as the surrounding businesses, it will be like the family. That is what he is wanting to do. He realizes that he wants to move forward and not have the community upset. Anything in growth there are labor pains, there are complaints. That particular area, I was reading that about 21,000 vehicles pass there. Can you just imagine if he does what he does on the backside of it, to add to the front side? He will have a whole lot of concepts of business out here. He won't have a small business. He will be able to do just as his competitors, to grow. And that is about what Wichita is about. We are all diversified. We want to be able to be a family and grow. He feels bad because of having this condition get to this point, but he also feels good about the fact that he is coming forth with this plan that is going to satisfy everybody. All of the negativity. All of the pictures that we are showing, we shouldn't have that. Then once we get involved in this, Wichita will be better. Ladies and gentlemen, that is what it is all about, having a better Wichita."

MICHAELIS "Thank you, Mr. Bruner. Are there any questions? Thank you, sir. Is there anyone else to speak in favor of this? Is there anyone to speak in opposition to?"

STEVE ROBERTS "I am President of the Chisholm Creek Neighborhood Association that contains this area you are seeing here. We met previously with Mr. Kaplan and Mr. McFadden about this property, and then we voted on whether or not to approve or oppose this project. The vote was unanimous in the neighborhood association to oppose it.

Mr. Kaplan came up to talk to you, and working for his client, told you basically that what they are asking for on the paper isn't exactly what they are asking for."

MICHAELIS "Mr. Roberts, are you speaking for the association?"

ROBERTS "I am speaking for the Chisholm Creek Neighborhood Association. Okay. Then Mr. Kaplan started throwing plans for things we have never heard of. All we have heard of, all we have discussed, all that has been discussed at public hearings to date is the addition of this building over here (indicating). Nothing was said about expanding the existing building.

Mr. McFadden has had this building for I don't know how long. For the 4 or 5 years that I have been living in the neighborhood, we have been getting complaints at the neighborhood association about the dumping of fill dirt, the parking of construction vehicles and the general poor upkeep on the building. He says he wants to correct that, and that is fine, but he has all of the time up until now to correct it and it hasn't been corrected. We don't see how he would be improving the property. We know from listening and from looking at Mr. Kaplan's slides that you don't see that directly to the west of that old K-Mart building where the Storage USA facility is now, that building set empty for 2 years and we finally got a client in it. You don't see the building attached to it directly to the west that are retail. All of which are full, except for 1. That is something you don't see. No one showed you slides to the south side across 21st Street, where the Cerebral Palsy Research Foundation sits, the Timbers Handicapped Residential facility, the nursing home, the two churches, the other elderly and handicapped residential facilities. You didn't see those.

I can echo the staff report in here where it says it is not compatible with the existing zoning or it will have an adverse impact on the community. All of that is in the staff report, I don't need to go over it. What it comes down to is that we just do not have the faith that if he actually builds that facility that it will improve the neighborhood any. If his contracting business does continue to be successful, he is liable to want to expand that zoning and those facilities to add more to what he putting on. We have no faith that that would be a good thing for the neighborhood. Now, we could go on through the staff report and cite all of the reasons under the golden rules of zoning on why it isn't a good idea, but it doesn't seem to fit any of them for why it should be approved.

For those reasons, the neighborhood association has asked me to present this and to say that we are opposed to this facility. That is all I have right now. Are there any questions?"

WARREN "Most of the things that I am hearing you say have to do with your association with him over the years and what he has done or not done, not so much as to zoning."

ROBERTS "As I said, sir, I can go back through the staff report and I agree with every single word. They have already touched every single reason not to do this. I could go over all of those. Those are the legal policy reasons to consider it. But you already have those in front of you in the staff report. There is no reason for me to repeat them."

WARREN "But we are interested in what people have to say in the neighborhood. Very much interested. Not just in the staff report. We watch those all of the time, but we are interested in what people say. I am concerned about the things that I am looking at, Nos. 1 through 6. Most of which are against this individual and not concerned with the zoning. That concerns me. We've got to look at zoning."

ROBERTS "There are no similar usages around. He says it is not proper for retail. The building he has there now has been occupied for the whole time I have lived in the neighborhood, so it is obviously suitable for the uses it is allowed now. The lot behind that building where he wants to build the new building, he has been using for the last 4 or 5 years. I don't know the Code well enough to know if his use has been legal, but it has been used to store fill, it has been used to store construction equipment out of doors. It has had a lot of dumping on it, I don't know if it is all necessarily his, but we sure aren't moving in 4 ton lots of filler with our kids' little red wagons."

MICHAELIS "Thank you. Is there anyone else wishing to speak in opposition? "

CANDYCE PORTLEY "I reside at 2424 North Battin, which is the Prairie Hills Addition that is located just north of Mr. McFadden's property. I stand before you today as a concerned citizen, taxpayer and homeowner. Everything I have heard, a lot of it technical—things that I am not familiar with, but what I do know is to rezone this area that was primarily meant for retail, restaurants, etc., would be a big no-no, because that is sending a message to the community as a whole that if you have property that has laid idle for several months or years, vacant buildings that are not being used, then the answer is 'if it sold, we will rezone, we will throw in a construction company or something that is not pertinent to that area.

I have lived in the Prairie Hills Addition in my home for 8 years. In those 8 years, I have seen a lot of change around the 21st and Oliver area. I have also seen homes go up behind me. I also witnessed construction trucks back and forth through the area going to the construction sites, which was most definitely hard on the streets. You don't want your children out playing in the streets when you know that periodically that you are going to have big dump trucks coming back and forth through the area. The city, as well as community leaders, has done a beautiful job revitalizing the whole University Gardens area, which is now University Plaza.

In those 8 years, I have continued to watch that property that belongs to the applicant deteriorate. I guess now my concern comes in that he wants to take all of this money and construct this humongous garage, if that is what we want to call it, or storage shed, but yet he has continued, or his family has continued, to neglect the existing property. To me that

is saying 'if you are going to take all of this money and do this, let's start with this first and then work our way'. To say that this is not retail space when at one time this area did consist of bingo parlors, photo studios, a five and dime store known as Dollar General, it is a possibility that one day this could come back to life again. Like I said, the University Gardens is a beautiful area now. There is just one vacant spot. So there is a possibility for this existing area, and I feel it is up to the applicant to decide whether he wants to stay here or does he want to move on?

As far as I am concerned, if he wants to continue to keep his property, develop it, to coincide with the existing area. I think that is wonderful. But as far as saying 'I am going to move my construction equipment here on this property', I don't think it is good for the area; for the neighborhood. You have children, you have the elderly that travel, you have the mental health patients that go up and down Pinecrest, where it is adjacent to. As far as an enhancement, it could be an enhancement, but how long is it going to remain an enhancement. Again, his past history doesn't impress me at all. I feel like if you are going to go through all of this trouble to make something better, then you have to start from the bottom and work your way up. You can't just jump right in and decide 'okay, I am going to erect this building, I am going to move all of my equipment in here'.

In closing, what is going to make him keep his end of the bargain? Not continuing to dump debris from his constructions sites, or even parking outside of the building. So I would ask you today to think long and hard about this decision and please oppose this zoning. I am opposing it. Thank you."

MICHAELIS "Thank you. Are there any questions of Ms. Portley? Thank you, Ma'am. Is there anyone else speaking in opposition?"

KAREN HARVEY "I am the Property Manager at Tall Oaks apartments, 2330 North Oliver. I am horrible at public speaking, so I will try to make this as painless as possible. Tall Oaks' stance in regards to the proposed changes are based on several important factors. Taking both parties viewpoints into account, I have bounced back and forth probably as most of you have in deciding which would be the best. With this in mind, it was extremely difficult to determine which side of the coin we would end up on. On one side we have the neighborhood association who we positively support and applaud for their continual efforts in improving and maintaining an adequate neighborhood for each resident to reside in. It is no secret that their utmost concern is for the betterment of the neighborhood and overall community.

Being Tall Oak's Property Manager, I have encountered many obstacles in our own efforts to improve our little 288 home community within the community of Wichita. I have first-hand experience with the agonizing hours spent supporting those improvements for the best interest of our little community and the intense persistence that it takes to see it through. In our neighborhood, we have numerous obstacles to overcome and at times it seems as though our 'to do' list is never ending. But we must never give up. What we must always strive to do is to stay focused with the best interests of our community, neighborhood and its residents in mind.

The neighborhood association is actively in place with that focus. On the other side of the coin, we have McFadden properties, who is, in my understanding, the owner of the property in question where the proposed changes would take place. When I was first informed and then approached about the issue and dispute, it was a vague description and I immediately concluded that 'well, it sounds like more storage being established within an environment that already includes storage, so big deal, why not?'. McFadden Properties owns it and should be allowed the option of implementing additional storage if they should choose to do so.

Again, as Property Manager with the best interests of the property in mind, we have made astronomical changes and improvements over the course of the past few years for our little community. Again, those improvements haven't always come off without a hitch. What we thought was no big deal and proposed to implement, we would plan it out and prepare to commence with these improvements only to find out that we couldn't do it our way because the city had certain codes and policies in effect and it is our obligation to make sure that we follow them or face severe penalties for not doing so.

This scenario has followed us through many stages of our improvements, but because we are willing to do it by the book, codes and laws already in effect, we had no choice but to alter our vision to coordinate with the city and the county and what their requirements are. Now, we could have said that we didn't agree with this program and its policies and codes, and said that we should stop all of the progress and proceed to argue the point until they see it our way. What a wonderful romantic fantasy among others we created out of our sheer frustration of having to do it by the book. Of course this was not an option for us. We proceeded as stated and followed the guidelines and conformed to the requirements given. Again, our persistence has paid off. But this side of the coin which McFadden represents is a rebel attitude, of which in the beginning of the proposal I immediately concluded that McFadden Properties ought to be allowed to make changes if those chose to do so. They are our neighbors, and I have enough to worry about on my side of the fence. It didn't sound like it should pertain to us, so we concluded to mind our own business.

Well, as time has passed, and a clearer view of what is actually being proposed has been presented to us, Tall Oaks was forced to flip the coin and let it land where it may and side with that. However, after careful consideration for the big picture and the issue at hand, we have decided to put the coin to the side and to develop an opinion of our own. Since the course of this day and my writing this memo, I have changed my mind again. So I am not really sure whether I am opposed to it or in favor of it. Mainly and primarily, I just want to stress that the area is not in good standing currently. If they are going to be granted the right to build this building, let's define it, let's get a commitment of what they are going to do and we need some follow-through. I don't know how you go about doing that, but that is the only way I feel that they should be granted the right to do what they are asking to do. Otherwise, we need to oppose it because it will never take place unless we define it. That is where we stand."

MICHAELIS "Are there any questions of Ms. Harvey?"

MARNELL "The gentleman who testified earlier said that the pool was no longer there and that you have a maintenance facility there. Is that accurate?"

HARVEY "That is accurate."

MARNELL "Would you describe the maintenance facility?"

HARVEY "The maintenance facility—I forget the exact dimensions at this time—but it is enough to accommodate our maintenance shop area if you have ever seen one of those. It is just a basic garage, Sturdy-Built out of Hutchinson came and put it up for us. It is just a standard garage area for our maintenance team to work out of."

BARFIELD "What is the zoning for that property?"

HARVEY "That is something new to me as well, but I think they mentioned here in one of the attachments."

KROUT "It is 'B' Multi-Family zoning."

HARVEY "Are apartments under B? Okay. What does that mean?"

GOLTRY "B Multi-Family allows apartments."

HARVEY "Okay."

MICHAELIS "Does that answer your question, Mr. Barfield? Okay. Are there any other questions? Okay, thank you, Ma'am. Is there anyone else who wishes to speak in opposition? Please come forward."

BARBARA JOHNS "I live at 5101 East Looman. My house is just to the north of the apartment complex on Looman Street between Oliver and Pinecrest. I am also a member of the Chisholm Creek Neighborhood Association and have been their acting secretary for the last 3 or 4 years. When this zone request first came to my attention, it was in December. I went out and took some pictures shortly after the snow had melted. I have a set for you and a set that I have personally kept for myself. I will start them in either direction. These sets are identical. They can give you an idea of the property. All of the pictures are of the McFadden property except the one of the University Plaza Gardens, one of the self-storage area and one of the Taco-Tico and the Sonic.

You also have a copy of the notes that I have given Donna Goltry in regard to my concerns for the area. These are some pictures my husband took just a couple of days ago. As you can see, the driveway is cracked, the construction trailer there, the windows have been broken out and it has been sitting on site for about a year or more. There is concrete and fill dirt and other things dumped there and there are just all kinds of things dumped around.

This is Pop's Laundromat, which is on the east side. The driveway of that area right now is in pretty good shape. Over the years it has had all kinds of buckles and tangles. It is not anything I would want to drive my car through. There is a little turquoise, maybe a swimming pool or something that is sitting there. There is a pile of asphalt dumped in front of the dumpster. This is another view of the trailer and the dumpster and the asphalt and some other stuff. That is all of the pictures because my husband's digital camera ran out of battery. You will just have to refer to the pictures that I am passing around.

My initial thought, when I learned of the zoning request from Light Commercial to General Commercial was a concern for setting a precedent for the area. If you have lived in Wichita as long as I have, which has been 20 years on that property, and I have watched west on 21st Street, to the west of the Canal Route. There was once Sutherland's Lumber, another lumberyard area—I don't recall if it was Payless Cashways or whatever—and there was the Livestock Exchange. Over the years, those facilities have closed and it has become pretty much scrap metal, pretty much industrial use.

I have also seen the city put a lot of time, a lot of commitment, a lot of money into developing 21st Street to the east of I-135 toward the University and extending on to Rock Road. But the majority of their investment has been up to the Hillside area and we have lots of new development there, Cessna, the Northeast Senior Citizen Center, Boys and Girls Club, two new banks, the Center for Health and Wellness, Kay's Plaza, the new Northeast Police Substation, and the new library branch. They have widened the highway, they tore out the old dilapidated housing and they have made it quite attractive. They are going to build the Henry Levitt Arena into a sports complex, they have expanded Eck Stadium, and they have purchased the Metro-plex at 29th and North Oliver. The area itself has been upgraded and there has been a lot of money even put into the development of the current 21st and Oliver shopping center. A lot of time by action committees and how to develop this.

As you know, the Neighborhood East Newsletter, which there is a copy of in your papers, these shops are just now opening. I would like to see the whole development remain retail shopping. I fear with the construction and industrial uses like that, it will continue to deteriorate and go down. I would like to see us continue to work to turn it around and maintain retail shopping zoning. Thank you."

MICHAELIS "Are there any questions of Ms. Johns?"

GAROFALO "Ms. Johns, what is the area covered by the Chisholm Creek Association?"

JOHNS "The Chisholm Creek Neighborhood Association is from Oliver to Woodlawn, 17th Street to 37th Street."

MICHAELIS "Are there any further questions? Thank you, Ms. Johns. Is there anyone else to speak in opposition? If not, Mr. Kaplan, you have 2 minutes for rebuttal."

KAPLAN "I seem to always be the subject of verbal abuse when it comes to Mr. Krout. I don't know what I do to him, but I am getting used to it after all of these years."

One of the problems I have is that I can't ever seem to talk about tomorrow on this. I can't ever get out of yesterday. All we want to talk about is what Mr. McFadden hasn't done and what I am trying to persuade people is to the point of view of what he will do if we are permitted to do this. We are hearing a lot of things from folks that actually have no effect. This side here, someone is going to have to explain to me how this 7,000 square foot site that I want to be 'GC' is going to have an effect on Mrs. Johns up here on Loomis. We have more than a block between them. This site cannot affect that site that I can see. It cannot affect 21st Street. I don't see how it has any effect on the businesses and the institutions that are on the south side of 21st Street. We are, after all, not going to generate new traffic, we are not going to generate noise, we are not a maintenance shop, and we are not going to generate pollution. I don't see that we are going to generate anything. What we simply want to do is to bring his personal and private company vehicles back home at night and park them in a building. Our access is only off of this one approach off 21st Street.

This is the only access we have to this site. We are willing to screen down Pinecrest and have access control all of the way, use only the 21st Street site. The dirt that so much has been made about, was brought there to build a building pad, which he found out he couldn't build until he rezoned and that was the reason for the dirt. I don't want to dwell on those kinds of things. As Commissioner Warren said, they have nothing whatsoever to do with land use.

Ms. Harvey of Tall Oaks I thought was very fair in her presentation. That is why I wanted to have a meeting with Tall Oaks so we could have some discourse about what we could do to reach accommodation. That request was declined. She told me before she left here that if the Commission decided to defer or wanted to defer, that yes she would meet with me and we would see what we could reach accommodation on."

MICHAELIS "Mr. Kaplan, your time is up."

KAPLAN "May I have one more minute?"

MOTION: That the speaker's time be extended for 1 minute.

WARREN moved, **HENTZEN** seconded the motion, and it carried unanimously.

KAPLAN "I am willing to amend, if necessary, to reduce the 'GC' just to the 7,000 square feet that I need to meet with the Tall Oaks lady, which she agreed to do, and to try to pacify these concerns if that is the pleasure of this Commission and to expand the existing building. The reason we presented the new building was---and that changed only after the DAB meeting---part of the problem we have was the protocol, Commissioners. We had a DAB meeting and 48 hours later, we have a Planning Commission meeting. There is just simply no time to react to the DAB suggestions. They are too close in proximity to each other."

MICHAELIS "Are there any questions of Mr. Kaplan? It's Commission time. Don't everybody speak at once."

WARREN I don't always agree with Mr. Kaplan, but I do agree with one point that he made early on, and that is if zoning were so cut and dried, if land use matters as they relate to what we have in our zoning ordinances and our subdivision regulations were so cut and dried, we wouldn't be needed here. But that is why we are here, to try to tailor some of these things. And that is what I see that he is doing again. He is not asking for unabridged, unencumbered General Commercial. He is asking for a specific use, which would be regulated, as I understand it, by the CUP, which would overlay this zoning. That is what he is asking for. I think we have kind of blown things out of proportion here, or they have gotten blown out of proportion. We talk about trucks coming and going as if that were a Dillon's store where that Storage USA is. If that were a Dillon's or an Albertson's store, there would be 18 wheelers pulling in and out of there all day long. And it would be retail, so it would be entirely legitimate. If this was Midwest Appliance, then they could have 15 trucks because they are retail. So because we have a uniqueness here and a zoning ordinance that says a construction company office can't put his trucks back there, that is what we are dealing with. That is all we are dealing with. So I am going to support the man using his property as he is asking and requesting to use it. I think he probably needs some lessons on being a little better housekeeper, and I hope that he will follow through and be a little better housekeeper."

BARFIELD "Let me attempt to put a little different tact on this. I am in total sympathy with Mr. McFadden and Mr. Kaplan; however, being a life-long native of Wichita, having lived in that area all of my life, I do happen to know that that property was developed as a retail environment. It has been a retail environment as long as I can remember. So to me it has had a sense of decline in that area, but I still hope, and I hold out hope that that could be reconstructed as a retail area. I think every community in this city has the objective of having a certain amount of retail space allocated to serve the community."

It is unfortunate, and I did not support the move to have the old K-Mart building converted to a storage unit. That, to me, doesn't do anything to me to enhance the retail. Neither does the proposal that we have before us.

Mr. Kaplan talks about the things that it does not do. It does not generate any retail traffic in an area that is zoned for retail. You heard one of the ladies speak about the fact that she holds out hope that one day it can be an ongoing, thriving retail development once again. I certainly hold out that hope. I believe that it can. But I will tell you what. If we continue to make all of these deviations, every single one we make lessens the opportunity for that to return to a thriving retail environment.

You know, we have heard so much about Mr. McFadden, and I agree that this is about zoning, not about Mr. McFadden—what he has done or what he will do. The fact of the matter is where he proposes to do it. This is not the area for this type of proposal. We should be sitting here looking at the Comprehensive Plan. The Comprehensive Plan would not approve of this type of a development in that area. I'm sorry; I can't go along with this. Like I said, I have total sympathy for Mr. McFadden. I think what Mr. McFadden will have to do, in my opinion—I have seen many construction companies that have an office at one place and their storage unit at another place. I think that is more appropriate. Let's contain this and reserve this for future retail development."

JOHNSON "I guess I want to shed a little different light on this. I agree that at one time it was a commercial area. Apparently it is not a commercial area today like we would like it to be. We could deny it today and leave the dirt there. It appears to me that some of those dirt piles have been there for quite a while with trees growing in them. So it didn't just happen. I guess what I would like to see is the possibility that Mr. Kaplan and Mr. McFadden taking a deferral on this and getting back with the neighborhood and maybe come up with a plan where they would add onto to this 'retail space' and then if it could be used, possibly as a temporary spot for construction equipment inside, if the area did turn around and become retail again, I am sure that that stuff would rent for money in a commercial application than a storage application. A structure would already be there and they could lease it out to a retail business. I wish there was like a Conditional Use or something we could use in this case, but there isn't, so I see what we are up against. This is a tough deal. I don't feel good about it, but I guess if they would take a deferral and go back and maybe the addition would tie into the existing building and wouldn't maybe take away from what it looked like originally, maybe everybody would win."

KAPLAN "That would be agreeable."

BARFIELD "The only problem I have with that is that we have already heard one of the speakers reference the fact that we should do this because the USA Storage is there. Each one of these we do makes it that much more difficult for the retail environment to return and it makes it that much easier for the next person to come in and say 'look, you should do this for me because you have already done it for two others'. It just makes that that much easier. The more we do it, the further we get away from ever, ever seeing thriving retail at that location again. Let me just tell you. That is one of the last, last retail environments in that part of the city."

MICHAELIS "I would just like to make a comment, too. I think Mr. Barfield's comments are well taken, and I get the impression that the overwhelming objection to this is not necessarily the usage of it, but the past usage of it. It is unfortunate that when you have something like this and you kind of flip a coin. It is easy to say what is going to happen in the future, but you don't know that. You do know what has happened in the past, and I get a feeling that that is probably the overwhelming opposition to it. There is just not that trust relationship there that if there were passed that it would be maintained.

I don't know if it is possible, and I think one of the speakers addressed this, whether we could tie something to that as far as a time-frame for getting it cleaned up as a condition of this and maintaining it and if wasn't maintained, and if something could be done, I don't know about that. So I am thinking that I would probably be more in favor of a deferral because if I had to vote right now, I would probably vote against it."

GAROFALO "I, too, am somewhat in agreement with Mr. Barfield's comments. I think we are looking at zoning here and as I view the staff report and from my own knowledge, there is no such General Commercial zoning in that entire area from the Canal Route, I-135, on east. There is a big opportunity, and people have been working very hard with the city's help to improve that particular area. I also don't think that the clean up of piles of trash and dirt and whatever, has anything to do with the zoning, that we would change the zoning just because there are piles of dirt there.

I would hope the city would get on somebody's back to get that cleaned up. So I am inclined to vote against any effort to change the zoning like that."

HENTZEN "We have been meeting in our Advance Plans Committee, and we have tried to look at these temporary storage boxes like it says, 'A Box 4 You', and we have been discussing some pretty serious control over that, saying that we didn't necessarily want to see them all over town for years and years in the same spot. In other words, why not build some storage space if you need it instead of putting the storage boxes out there?

Now here comes a case where a guy says he needs some storage for parking for my trucks and he will put a building around it. All of a sudden we decide that maybe we don't mean what we have said about these storage boxes. I don't think there is a whole lot of relationship there on a single case, but either we are in favor of building storage spots or parking spots or we are not. So I will vote to defer it if that is my choice. There hasn't been a motion made yet."

PLATT "Mr. Barfield has said very well just about everything that I was thinking about saying on this, so I will simply second his comments. Then I would add one thing and that is that the first time I ever appeared before this body, about 30 years ago, it was on the CUP for this particular shopping center. The neighbors were very strongly opposed to it. They brought up a lot of reasons as to why they were opposed to it in terms of what it would do to the neighborhood. One of the things they were very concerned about was not what was being proposed to go in there, but what would eventually follow.

Now it didn't occur to them at the time, as I recall, to even dream of the idea that we would have construction storage in them. They didn't even think that would be possible, of course. What they did say was 'we can envision that the next thing we know, we will have a used car lot there'. So I suppose that we will be seeing a used car lot being proposed next. It seems to me that we have to look at the impact that anything we do has on a neighborhood. The construction storage is not proper in this area at all."

OSBORNE-HOWES "I have been pretty quiet today, but I have been listening to all of your comments and frankly it has helped me. I believe that I support what Mr. Barfield and Dr. Platt are saying. I guess I feel like if we are involved in planning and we are looking at this center, we ought to be looking at what it could be. It is going to be ever so much more likely that it could be what we would like to see it be if we don't support this particular application.

There has been some talk of deferring it, and I am trying to decide why would defer it, and what I hear is that maybe we could come up with some temporary way that he could build a building and if the shopping center change became retail, then maybe we could ask him not to do that anymore. That doesn't make any sense to me.

Then I also look at the uses, and there is certainly significant retail there now. So I frankly, at this point, can't even envision a deferral. I guess I would just like to enter a motion for denial."

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the zoning, uses and character of the neighborhood; the suitability of the subject property for the uses to which it has been restricted; the extent to which removal of the restrictions will detrimentally affect nearby property; conformance of the requested change to the adopted or recognized plans and policies; and impact of the proposed development on community facilities; I move that we recommend to the governing body that this application be denied, subject to staff comments.

OSBORNE-HOWES moved, **BARFIELD** seconded the motion.

MICHAELIS "Mr. Krout, could I ask you for a clarification? We have deferred this once. Is it appropriate to defer it again, or is there a limitation on that? As a follow-up to that, if we would choose to defer it, could we put some requirements on it that it goes through the DAB meeting and gets your approval and everything before we come back through all of this again?"

KROUT "This hasn't been deferred. This is the first hearing. It was postponed, but this is the first hearing, so it is the first time that everyone has come together on it."

MICHAELIS "Okay. There is a motion on the floor. Is there any discussion on the motion?"

WARREN "I am going to oppose the motion on the basis that I think we blow these things clear out of proportion. We are talking about General Commercial. Boy, you can shoot that one down because it doesn't belong in this area. What we are really talking about is the land use to allow a man to put some trucks inside of a building. We are not talking about General Commercial. We are talking about allowing trucks to go inside of a building. If these trucks were delivery trucks, they would be fine."

BARFIELD "But they wouldn't be stored there."

WARREN "Sure they would. Delivery trucks at retail can be stored there. If this was a retail business; if this was Midwest Appliance and they had 25 retail trucks delivering appliances, they could be stored there. Could they not, Marvin?"

KROUT "Trucks can't be stored in Limited Commercial that are over 26,000 pounds. There is a limitation on the size of trucks that you can park over night in a Limited Commercial area, but there is not in General Commercial."

WARREN "Dillon's parks half a dozen big van trucks, not inside, but outside. This is kind of a discrimination thing against a guy who happens to be in the construction business. If it was almost any other business, what he would be doing would be fine and the zoning would be proper. He could store his vehicles in the building. We have businesses all over town that store numerous vehicles, some inside and some outside. Those are the reasons I am going to oppose the motion. I think what he is asking for is legitimate use of the land disregarding the fact that he has to identify it as General Commercial. That is just a quirk in our law."

MARNELL "I am going to oppose the motion also. I think the use that the applicant intends to put the building to and the restrictions that they are willing to take to it will do nothing but improve the area. I think that is what that area needs is

investment, not people walking away from it or having hopes that someday it may do this or some day it may do that. But this is somebody who is willing to invest today and I am going to support them in that. So I will oppose the motion."

MICHAELIS "I would ask for a clarification, too. The motion basically calls for a 'GC' and if we do that and Mr. Kaplan, this is directed to you, are we looking at building, are we looking at adding on?"

KAPLAN "In support of my request for deferral, it seems to be the consensus that people would rather see an add-on. I engaged in conversation with the Tall Oaks lady, Mr. Chair. I think—I can't promise—but I think we can arrive at a private treaty. To answer your question about conditions, we can do a private covenant with the Tall Oaks apartment, our nearest neighbor, and there seems to be room for discussion. I visited with her before she left. That is one reason I want the deferral, to see if I can bring back a private treaty that will be recorded that will commit us contractually to the Tall Oaks in the neighborhoods as to conditions we agree upon. I think it is doable."

MICHAELIS "Thank you. Any other discussion?"

BARFIELD "No. 1, this has already been before the DAB, and as we know, they voted 7-2 for denial. The second point of contention here is we are not talking about heavily on the 'might'. I want to read to you from this that was submitted to us by one of the Neighborhood Associations 'with the new renovation of the Dillon's building', and I might add with retail shops, 'and the Climate Control Storage Center, in the KMart building, we feel we have turned the corner toward renewed interest in shopping center as a retail area. The zoning change requested would not compliment the redevelopment plans for the shopping center'.

What we are talking about is already under way. Renewed interest in development as a retail area. Thank you."

MICHAELIS "Are there any further comments?"

SUBSTITUTE MOTION: That the item be deferred until the March 22 meeting.

WARREN moved, **MARNELL** seconded the motion.

VOTE ON THE MOTION: The motion carried with 6 votes in favor (Warren, Johnson, Michaelis, Marnell, Hentzen, and Lopez) and 4 in opposition (Osborne-Howes, Platt, Garofalo and Barfield).

9. **ZON2000-00063** – Tom Martin (Owner/Applicant); Savoy, Ruggles, and Bohm c/o Randy Johnson (Agent) request zone change from "SF-6" Single-Family Residential to "MH" Manufactured Housing on property described as:

Lot 17, Block 1, Deer Lake Estates, an Addition to Sedgwick County, Kansas. Generally located south of 47th Street South and east and west of Broadview.

SCOTT KNEBEL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant requests a zone change from "SF-6" Single-Family Residential to "MH" Manufactured Housing on a 2.56 acre platted tract located south of 47th Street South and east and west of Broadview. The subject property is located within the Zoning Area of Influence for the City of Derby.

The applicant proposes to develop the site as a manufactured home subdivision. Manufactured home subdivisions differ from manufactured home parks in that manufactured home parks are a single large lot on which spaces are rented to owners of manufactured homes. Manufactured home subdivisions contain multiple platted lots with manufactured homes on individual lots. Lots within a manufactured home subdivision are typically owned by the owner of the manufactured home.

As shown on the attached site plan, the proposed manufactured home subdivision would have 12 lots, resulting in a density of 4.7 units per acre. The minimum lot size proposed is 6,130 square feet, with most lots proposed to be in the 6,500 to 7,000 square foot range. Except for two lots fronting an existing street (Jonquil), the lots would be served by Broadview Court, to be dedicated as a public street with 64 feet of right-of-way and a 100-foot diameter for the cul-de-sac right-of-way. The proposed utility easements would provide 20-foot easements for utilities. The proposed front setbacks are 10 feet for manufactured homes and 20 feet for garages or carports. As proposed, the site plan conforms to the standards of the Unified Zoning Code and the Subdivision Regulations.

The surrounding area is a developed with a manufactured home subdivision, Deer Lakes Estates. The adjacent property is zoned "SF-6" Single-Family Residential. When the adjacent property was zoned and platted in the late 1970s, Sedgwick County zoning regulations permitted manufactured home subdivisions in single-family residential zoning districts.

With the exception of the subject property, the properties in the Deer Lake Estates Addition are regulated by restrictive covenants (see attached). The major provisions of these restrictive covenants are: restricting the age of manufactured homes to five years old or newer at the time of placement; requiring a carport or garage to be placed on each lot within six months of the placement of a manufactured home; and requiring design review by the home owner's association of all manufactured homes, carports, garages, storage buildings, fencing, and landscaping prior to placement/construction. The restrictive covenants also contain other, more minor, regulations regarding the maintenance and use of property. To ensure that the proposed manufactured home subdivision is compatible with development on adjacent properties, Planning staff has requested that the applicant agree to voluntarily place these same restrictive covenants on the subject property.

CASE HISTORY: A zone change request (SCZ-0417) on the subject property and the surrounding 60 acres from "E" Light Industrial to "AA" One-Family Dwelling was approved by the County Commission on May 2, 1979. The subject property is platted as Lot 17, Block 1 of the Deer Lake Estates Addition, which was recorded on September 12, 1980. A Conditional Use request (CU-283) for a manufactured home park on the subject property was denied by the County Commission on August 21, 1985. The Conditional Use request was denied based on findings that the requested density of 7.7 unit per acre was too high in comparison to the surrounding uses; the proposed 34 foot by 75 foot rental spaces were too small to provide adequate setbacks between structures; and the proposed 30 foot private drive in combination with small rental spaces did not provide adequate parking. In addition, members of the Deer Lake Estates Homeowner's Association expressed concern at the public hearings regarding the property owner's unwillingness to develop the property as a manufactured home subdivision rather than a manufactured home park and to place the same restrictive covenants as the surrounding properties on the requested manufactured home park.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-6" Manufactured home subdivision
SOUTH: "SF-6" Manufactured home subdivision
EAST: "SF-6" Manufactured home subdivision
WEST: "SF-6" Manufactured home subdivision

PUBLIC SERVICES: The subject property will have access to Jonquil and Broadview Court, both of which are local streets. Public water and sewer service are available and can be extended to serve the site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Medium Density Residential" development. The Medium Density Residential category provides for semi-detached dwelling units such as duplexes, townhomes, and mobile home parks, where appropriate. The Comprehensive Plan contains the following objective: encourage residential redevelopment, infill, and higher density residential development, that maximizes the public investment in existing and planned facilities and services. The objective is intended to be achieved through the following strategy: use Community Unit Plans, Planned Development Districts, and zoning as tools to promote mixed use development, higher density residential environments, and appropriate buffering.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to replatting as a manufactured home subdivision within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is a developed with a manufactured home subdivision, Deer Lakes Estates. The adjacent property is zoned "SF-6" Single-Family Residential. When the adjacent property was zoned and platted in the late 1970s, Sedgwick County zoning regulations permitted manufactured home subdivisions in single-family residential zoning districts. Using the subject property as an extension of the manufactured home subdivision seems to be the most logical use of the site.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. Given the site's location in the middle of a manufactured home subdivision, it is unlikely that it would be suitable for a subdivision of single family residences.
4. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed use of the subject property as a manufactured home subdivision should not have detrimental affects on nearby property, which is also used as a manufactured home subdivision. To ensure that the proposed manufactured home subdivision is compatible with development on adjacent properties, Planning staff has requested that the applicant agree to voluntarily place the same restrictive covenants on the subject property as are currently in place for the surrounding property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for semi-detached dwelling units such as duplexes, townhomes, and mobile home parks, and a manufactured home subdivision is a land use that is consistent with the Guide. The Comprehensive Plan contains an objective to encourage residential infill development through zoning. The proposed rezoning to allow a manufactured home subdivision accomplishes this objective.

5. Impact of the proposed development on community facilities: The impact of increased traffic from the additional dwelling units should not exceed the capacity of the local streets. Other community facilities are also adequate to serve the proposed use.

KNEBEL "This is a re-zone request from 'SF-6' single-family to 'MH' Manufactured Housing. The subject property is 2-1/2 acres that is platted as one large lot. It is located south of 47th Street. The entrance to the property is along Broadview, near the intersection of 47th Street South and K-15 Highway. The subject property is located within the zoning area of influence of the City of Derby. The Derby Planning Commission has heard this case and has recommended it for approval, subject to a couple of conditions.

Essentially their conditions were that the McConnell Air Force Base be notified of this hearing today and given the opportunity, even though they are outside the area of notification to submit written comments or to come and speak at this hearing. Also, Derby recommended that a commitment that the owner of the property had made in writing be notarized rather than just signed without a notary to attest it.

As you can see on the aerial, and on the property previous, the area is developed residentially. It is developed as a manufactured home subdivision surrounding this site, and that is the intended use of the manufactured housing zoning. You can see on the site plan that the owner is proposing to extend Broadview into a cul-de-sac and put 12 lots for manufactured homes around that. These would be individual lots, which is different than a manufactured home park, which you see quite often. They are platted as a single lot with rental spaces. The manufactured home subdivision differs from that in that the owner of the manufactured home typically owns the underlying lot as well.

The site plan that is shown here and is in your packet does comply with all of the standards in the Unified Zoning Code and the Subdivision Regulations. The site is fairly heavily wooded today. There are a couple of buildings and multiple dwelling units on this particular site. One of them is a duplex. There are manufactured homes surrounding the site, most of them being single-wide with a few double-wides, on narrow lots. Deerlake Estates, which the surrounding properties are in, and the subject property in in on Lot 17, was developed under a set of restrictive covenants which are pretty lengthy and are attached to your staff report. Essentially, they have some restrictions on the age of the manufactured home that can be placed there; a requirement for a carport or garage in association with each dwelling unit, some design review by a homeowners association committee prior to the addition of a garage or a carport or fence. Those types of things, which is pretty common in other areas where you have covenants, even in single-family neighborhoods.

The Planning staff had recommended to the applicant that he agree to subject his property to those same restrictive covenants in order to ensure that the development of these 12 lots conforms to the standards of the surrounding lots. The applicant has agreed to do that and has submitted a letter to that effect. It is in your back-up materials.

This particular property has been the subject of a request in the past for a Conditional Use to permit a manufactured home park. That was denied back in 1985. We think that the difference between these two is that the previous request was for a manufactured home park rather than a manufactured home subdivision, which I have discussed the differences between. Also, back in 1985, the owner, which is a different owner than the owner today, was not agreeable to having the same covenants placed on the property as was placed on the surrounding properties.

Based on these factors and the recommendations that are listed on Pages 3 and 4 of the staff report, the Planning staff recommends that the request be approved, subject to replatting this single lot into multiple lots as a manufactured home subdivision."

MICHAELIS "Are there any questions of staff? Thank you, Mr. Knebel. Can we hear from the applicant, please?"

RANDY JOHNSON "I am with Savoy, Ruggles and Bohm, here on behalf of the applicant. Basically, we agree with everything that Scott has described to you. He did a very good job of telling you what our intent is for this site and the reasoning for our request for the zoning.

I do want to reiterate that we did work very hard with the Deer Lakes Estates Homeowners' Association in trying to make sure that they were aware of what we were doing from the beginning. We tried to entertain any questions they had. They had requested that we follow along with their restrictive covenants. We did that. At the request of the Derby Planning Commission, we had the letter notarized and they have a copy of that. I believe that the McConnell Air Force Base has also been informed and I don't believe we have heard any response from them on this project.

I just kind of wanted to also reiterate a couple of things. This site is basically an island within an existing manufactured home subdivision. It is the best possible use for this site. I am not sure what other proper uses would be conducive to this area. We feel that by following their covenants that we are just adding to their subdivision as opposed to trying something different than already exists.

MICHAELIS "Any questions of Mr. Johnson? Thank you, sir. Is there anyone in the audience wishing to speak in favor of this?"

MARILYN COSTLOW "I am the Secretary of the Deer Lake Estates Homeowners' Association. I would like to speak on behalf of the board. I think we are very supportive of this. It will probably improve our area and make it look just like our area. The lots are about the same size, and Mr. Martin has indicated his willingness to go along with our covenants which restricts the age of the mobile homes, etc. So we are very much in support of it."

MICHAELIS "Are there any questions of Ms. Costlow? Thank you, Ma'am. Is there anyone wishing to speak in favor of this? Is there anyone wishing to speak in opposition to? Seeing none, we will bring it back to the Commission. What is the pleasure?"

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (1. The zoning, uses and character of the neighborhood: The surrounding area is a developed with a manufactured home subdivision, Deer Lakes Estates. The adjacent property is zoned "SF-6" Single-Family Residential. When the adjacent property was zoned and platted in the late 1970s, Sedgwick County zoning regulations permitted manufactured home subdivisions in single-family residential zoning districts. Using the subject property as an extension of the manufactured home subdivision seems to be the most logical use of the site. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-6" Single-Family Residential, which accommodates moderate-density single-family residential development and complementary land uses. Given the site's location in the middle of a manufactured home subdivision, it is unlikely that it would be suitable for a subdivision of single family residences. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed use of the subject property as a manufactured home subdivision should not have detrimental affects on nearby property, which is also used as a manufactured home subdivision. To ensure that the proposed manufactured home subdivision is compatible with development on adjacent properties, Planning staff has requested that the applicant agree to voluntarily place the same restrictive covenants on the subject property as are currently in place for the surrounding property. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for semi-detached dwelling units such as duplexes, town homes, and mobile home parks, and a manufactured home subdivision is a land use that is consistent with the Guide. The Comprehensive Plan contains an objective to encourage residential infill development through zoning. The proposed rezoning to allow a manufactured home subdivision accomplishes this objective. Impact of the proposed development on community facilities: The impact of increased traffic from the additional dwelling units should not exceed the capacity of the local streets. Other community facilities are also adequate to serve the proposed use.) I move that we recommend to the governing body that the request be approved, subject to platting as a mobile home subdivision within one year.

WARREN moved, **GAROFALO** seconded the motion, and it carried unanimously (10-0).

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10. **A 98-33** – The City of Wichita seeks the annexation of properties generally located west of 119th Street West from South of 13th Street North to north of 21st Street North.

KROUT "Commissioners, Item No. 10 is the City of Wichita has called a public hearing to annex properties in the northwest edge of the city. One of the largest portions of this area that the City is considering is called Cedar Downs. It is an area of 1-acre suburban lots. The majority of the property owners in that area have petitioned the City already to pave the roads in that subdivision, and they understand that it is not absolutely required, but that it makes sense for the city to get involved in a petition project in an area that is part of the city limits. It would be hard to justify the City's involvement otherwise. These are all eligible areas and they are in the growth area as defined by the Comprehensive Plan, so we would like for you to make the finding that the proposed annexation is consistent with the Comprehensive Plan."

MICHAELIS "Is this a public hearing?"

KROUT "No."

HENTZEN "I would like to ask a question of Marvin. On this handout we received, the first map, which is entitled Attachment No. 1, look at right where the Cowskin Creek name is mentioned. This is on Agenda Item No. 10. Now, when I get over to Page 5, it shows the whole area. So what I am asking is 'what are you annexing'?"

KROUT "I think there is another map, Map No. 2, that shows a Phase No. 1 and Phase No. 2. So the first map you saw is the legal description for the Phase No. 1 area. And then the second map shows the whole annexation area. Then the map that is entitled Map No. 2 shows how they come together in two phases. That area further to the west, I think those lots may have been platted. Are those platted lots?"

RIAN HARKINS, Planning staff "Yes. Most of them are platted as I understand."

KROUT "Those lots to the west obviously are not eligible to be annexed at the same time. It is not part of one platted addition, is that right?"

HARKINS "It is a mix of platted and unplatted properties."

KROUT "So the only reason that those areas to the west are not part of the initial annexation area is because they are not eligible. That is why this has to be done in two steps, which means there will be two public hearings and this will come back to you for the second phase."

HENTZEN "And all we are doing today is setting the date for the public hearing?"

KROUT "Well, we are asking you to find that to annex these properties would be consistent with the growth plan for the city and county."

HENTZEN "In other words, we are not setting a public hearing."

KROUT "No. The City Council has set the public hearing."

HENTZEN "Okay."

OSBORNE-HOWES "I just want to be real sure that if I live real close to that that it doesn't have any bearing on whether I should step down or not."

KROUT "No."

OSBORNE-HOWES "Okay."

MOTION: That the areas are found appropriate for annexation and that we find that the unilateral annexation is compatible with the adopted Comprehensive Plan.

GAROFALO moved, **MARNELL** seconded the motion, and it carried unanimously (10-0).

11. DR 00-11- Delano Neighborhood Plan

MICHAELIS "What are we doing on this? Are we going through this again?"

KROUT "I don't think we are going through it again. You have had a public hearing and you continued that public hearing until this afternoon. Rian, do we have any more information, or does the neighborhood have any more information?"

RIAN HARKINS, Planning staff "The only thing I would add other than what I previously said on January 4 at the first part of the public hearing is that on December 6, 2000, the District Advisory Board for Council District IV voted 9-0 to recommend approval of the Delano Neighborhood Revitalization Plan. Staff has met twice with representatives from Delano; once with the neighborhood association and once with the business association. They expressed continued support for the plan and they were energetic and very eager to begin working with staff to work on the down-zoning and the zoning overlay issues associated with the implementation of the plan. Those would be the only things I would add.

There are some folks from Delano here if you would like to hear their comments. Some of them were not here before. Other than that, I would stand for any additional questions you might have of staff at this time."

MICHAELIS "Are there any questions of staff? Okay. Thank you. This is a continuation, so I would just ask whoever wants to speak, if you have anything new to add, feel free to do so, but if it is repetition of something we have already heard, we would appreciate eliminating that. So with that, whoever would like to come up and speak, please do so."

BRAD GIDDENS "I live at 217 South Mt. Carmel here in Wichita. I represent the Delano Clergy Association. We would just like to voice our support for the plan. We feel that as our neighborhood goes, so go our churches. We feel that this plan will do nothing but improve our neighborhood, attract people to the neighborhood, to move there and spend money there. So we are just in favor of the plan. We hope that you will approve it."

MICHAELIS "Are there any questions of Mr. Giddens? Thank you, sir. Next speaker. Come forward ma'am."

JEAN POLLITT "I live at 421 South Sycamore. I am very, very much in favor of this plan. In fact, I embrace it. I think it is the thing that our Delano neighborhood needs. We have some wonderful people there who are willing to work and work, just as hard as they can to bring it to fruition. Thank you."

MICHAELIS "Are there any questions of Ms. Pollitt. Thank you ma'am. Yes, sir."

JACK KELLOGG "I am a business owner at 601 West Douglas. I am in favor of the plan, allowing that we could work with Bryan and the City staff in regards to possible zoning overlays and zoning issues in relation to businesses in the area. Thank you."

MICHAELIS "Are there any questions of Mr. Kellogg? Thank you, sir. Anyone else?"

JIM MARTINSON "Hi. I live at 917-1/2 West Douglas, above one of the businesses there. I serve, currently, on the Board of Directors of the Delano Business Association, as the past president. This is something we have been working on, kind of, for 6 years now, and we have worked very closely with the neighborhood association who has basically spearheaded this effort. We are certainly in favor of this plan and we have supportive of all of their efforts in trying to help them get this organized. I am just here to tell you that the Business Association is fully behind this."

MICHAELIS "Thank you, sir. Are there any questions of the speaker? Is there anyone else wishing to speak? Okay. Then, what do we need to do from here, Mr. Krout?"

KROUT "We would like to have a motion that you recommend approval of the Delano Neighborhood Plan and authorize the Chair to sign the resolution that has been prepared as an element of the Comprehensive Plan."

MOTION: That the Planning Commission accept the Delano Neighborhood Plan as presented, and authorize the Chair to sign the resolution.

HENTZEN moved, **OSBORNE-HOWES** seconded the motion.

MICHAELIS "Is there any discussion?"

MARNELL "I have a couple of comments to make. I am going to support the motion, but I want to remind some people from that neighborhood who had vicious opposition and made ugly remarks during the Comprehensive Plan hearings that this kind of a thing could not happen if that plan was passed. That plan was passed and this kind of a thing is happening. It will benefit that neighborhood. Despite being called a racist for having supported the Plan, even though I didn't get an opportunity to vote on it since I was absent from that meeting, I am going to support this and vote for it. Thank you."

WARREN "I am going to support the plan also. I think it is great and nothing but good can come when people are pulling together, such as what we are seeing here now. I do want to caution, particularly these business people to work closely with this zoning office as it would relate to that Protective Overlay that is going to impact that business district to make sure that they can live with that. I have not seen what the restrictions, the regulations, and controls are that are going to be placed on these businesses. I have not seen that yet. I don't think that has been developed yet. So I just want to caution them to make sure that they are satisfied that they can live with those extra restrictions, regulations and controls, because any time I see that, I am suspect."

OSBORNE-HOWES "I guess I would just have to say that I have been real impressed with the involvement of the people; the businesses, and the clergy who live and work in the Delano area. I think as a result of that, they have come up with a real good plan and I applaud them."

MICHAELIS "I would like to echo that, too. I think it is going to be pretty obvious that you folks are kind of the forerunners and the instigators, so whatever example you set is going to be followed throughout. I am sure, and quite confident that you will do a fine job and make that a good example to follow."

HENTZEN "I just have to say to the Clergy Association that is here today, that what you did at the hearings was very offensive to me. And in fact, the letter you wrote to the City Commission, I have a speech that I want to give to you, but I am not going to do it now because it is nobody else's business. But I do share what Ron (Marnell) was saying. I just want to say that it was offensive to me. I thought clergy people would be better informed than that."

MICHAELIS "Are there any other comments?"

VOTE ON THE MOTION: The motion carried with 10 votes in favor. There was no opposition.

12. **DR2001-01** – Briefing on the Historic Preservation Plan; request to authorize public hearing for March 8, 2001.

KROUT "Commissioners, Kathy Morgan, our Historic Preservation Planner is here. She is prepared to do a briefing on the Historic Preservation Plan, but I also indicated to her that, due to the lateness of the afternoon and the weather, if you have any questions that she can answer at this time, we could handle it that way, and then she could make a brief presentation at the public hearing, if you authorize that public hearing for March 8."

MICHAELIS "We need a motion to put it on the March 8 hearing."

MOTION: That a public hearing for a briefing on the Historic Preservation Plan be held on March 8, 2001.

WARREN moved, **GAROFALO** seconded the motion, and it carried unanimously (10-0).

KROUT "Are there any questions that any of you have that you would like for Kathy to respond to either now or four weeks from today at that hearing?"

MORGAN "I would be more than happy to speak with you on the phone or meet with you."

KROUT "If you have any concerns before the hearing you can contact Kathy directly."

VOTE ON THE MOTION: The motion carried unanimously (10-0).

13. **DR00-10** – Request to authorize a public hearing for March 8, 2001, for the Mid-Town North Neighborhood Revitalization Plan.

KROUT "This is the Mid-Town North Neighborhood Plan. You were briefed on this plan and given a draft copy of it back in August. Since then, there have been neighborhood District Advisory Board meetings and one of the reasons that we have delayed this to you for a public hearing is to try to work out some of the details. I think that is done now. There is going to be a neighborhood DAB meeting before this March 8 public hearing, but we would like for you to set the March 8 hearing and we will bring you those plans in advance of the hearing."

MOTION: That a public hearing on the Mid-Town North Neighborhood Revitalization Plan on March 8, 2001.

HENTZEN moved, **JOHNSON** seconded the motion, and it carried unanimously (10-0).

14. **Other Matters**

MICHAELIS "Are there any other matters that need to come before the Commission? If not, I would entertain a motion to adjourn."

MARNELL moved, **JOHNSON** seconded the motion, and it carried unanimously (10-0).

The Metropolitan Area Planning Commission formally adjourned at 4:55 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2001.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)